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1 MR. SCHECHTER: There's one additional one  
2 and I only have two of three and I have no idea what  
3 this is.

4 (Shown to counsel.)

5 MS. JOHNSON: What does it say on the cover  
6 page of your Rosario packet?

7 Where did you pull that out of?

8 MR. SCHECHTER: I got it from the group of  
9 papers you gave me.

10 MS. JOHNSON: Because the cover page had a  
11 list of what everything was, so let me just take a look  
12 at mine.

13 (Pause in the proceedings.)

14 It's part of a complaint report that wasn't  
15 part of the narrative, which is why what was turned  
16 over, is the defendant's information and the part that  
17 was redacted was the personal information of the  
18 complainant.

19 MR. SCHECHTER: Well, certainly I'm entitled  
20 to that on Rosario with respect to the complainant, but  
21 we should have some kind of Court follow-up on this,  
22 maybe make these Court exhibits, to make sure I get  
23 these papers and there are other documents I did not  
24 get and I would like to give reference to them, if I  
25 may.

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1 MS. JOHNSON: I agree, they are absolutely  
2 Rosario for purposes of the trial.

3 THE COURT: I'm a little confused,  
4 Mr. Schechter, as to what you're asking me.

5 MR. SCHECHTER: I could have this marked as a  
6 Court exhibit, if the Court wishes, and ask her why --  
7 there are three papers. I only have two of three.  
8 There's not one of three I don't have and three of  
9 three I don't have. I have no idea what that document  
10 is.

11 MS. JOHNSON: It's part of a complaint  
12 report, your Honor, and the part that was not provided  
13 was narrative about the complainant, information  
14 involving the complainant.

15 The part that was disclosed for hearing  
16 purposes is what was relevant not only to the testimony  
17 of both witnesses here, but the defendant.

18 THE COURT: Let me ask you this.

19 Did you provide -- I'm looking at something  
20 that's a document that says Page 2 of three.

21 Did you provide Page 1 and page 3?

22 MS. JOHNSON: I would not have, Judge, if it  
23 was part of the victim's narrative.

24 MR. SCHECHTER: No, I did not get it.

25 MS. JOHNSON: And Page 3, I believe, is the

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1 one I showed counsel that's blank.

2 MR. SCHECHTER: That's a different report,  
3 Judge. That Page 3 that was blank was the arrest  
4 report.

5 THE COURT: Well, I have no idea what I'm  
6 looking at.

7 MR. SCHECHTER: I don't either, Judge, and  
8 that's why I'm raising this to the Court.

9 THE COURT: Do you see what he's handed up to  
10 the Court, Ms. Johnson?

11 MR. SCHECHTER: I showed it to her, I  
12 believe, Judge.

13 MS. JOHNSON: I'm pulling out -- I have a  
14 full copy of the detective's case jacket, so let me  
15 take a look.

16 (Pause in the proceedings.)

17 MS. JOHNSON: What he just handed up to the  
18 Court was Page 2 of the complaint report, Page 1 being  
19 what your Honor had looked at where it said at  
20 time/place of occurrence, crime victim walked inside of  
21 105th Precinct.

22 So here is Page 2 of that three-page  
23 complaint report. Page 3 already being provided to  
24 counsel which indicates the defendant's information and  
25 a portion where it says crime data and details. So

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1 this is Page 2 of the complaint report.

2 MR. SCHECHTER: I think -- may I see that,  
3 please?

4 (Shown to counsel.)

5 MR. SCHECHTER: I believe counsel is mistaken  
6 and I would like to show you why.

7 She had alluded to the fact Page 1 of three  
8 is that narrative. She's referring to the complaint  
9 report.

10 This is another complaint report. If you  
11 look at Page 2 of three, which is the one I have here,  
12 it's completely different.

13 MS. JOHNSON: There's more than one complaint  
14 report, that's why.

15 MR. SCHECHTER: It's not the same first page  
16 for both reports, counsel, is what I'm saying.  
17 page 1 is different for each one. And there's no  
18 Page 3 here either. All I have is two of three on this  
19 particular item.

20 Just so that the record is clear, the  
21 document I'm referring to has information concerning  
22 the complainant which is blacked out on the top and in  
23 one of the boxes it says reporter, colon, a number  
24 sign, one of one and then again it appears to be  
25 information about the complainant which is blacked out

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1 and then underneath that, wanted number, one of one, it  
2 refers to a male, five feet nine inches tall, my  
3 client's name, but that's all there is on this document  
4 and I have no idea what it relates to.

5 Certainly, the Page 1 alluded to by counsel  
6 cannot possibly relate to the same complaint report.

7 MS. JOHNSON: Judge, I have them both in  
8 front of me.

9 THE COURT: This is part of what was handed  
10 over, I think, last week.

11 I've got Page -- it starts off with -- it's a  
12 legal size copy. It says Page 2 of three.

13 MR. SCHECHTER: Is that the one that's  
14 blacked out on the top and the sex box?

15 THE COURT: No, it's not blacked out.

16 MR. SCHECHTER: Two of three I have --

17 THE COURT: But then at the bottom of the  
18 first it says end of complaint report.

19 MR. SCHECHTER: Is your Honor referring to --

20 THE COURT: Excuse me.

21 MR. SCHECHTER: I'm sorry.

22 THE COURT: So then I go to the next page,  
23 there's another two of three.

24 MR. SCHECHTER: Yes.

25 THE COURT: That has -- at the top it says --

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1 there starts to be some blacked out items. Then it  
2 says reporter, one of one.

3 MR. SCHECHTER: Right.

4 THE COURT: There's a name that's blacked out  
5 next to that.

6 MR. SCHECHTER: Yes.

7 THE COURT: Then it refers to a male, which  
8 I'm assuming is the defendant.

9 MR. SCHECHTER: My client's name is there,  
10 Judge.

11 But I'm saying I don't have anything --

12 THE COURT: Then it goes to Page 3 of three  
13 and then it says end of complaint report.

14 So you've got --

15 MS. JOHNSON: Because there was two complaint  
16 reports generated, your Honor, one that was printed  
17 probably from the PD website and one that was printed  
18 from the internal computer which is why he has two  
19 copies.

20 One of them -- both of them begin the same  
21 way. One has more information than the other, but the  
22 information as to the defendant has all been provided.

23 If your Honor wants to take a look I'll show  
24 you both of the reports, but everything that's --

25 THE COURT: Let me just tell you this.

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1           The Page 2, if you will, of two of three, as  
2           I indicated, I have two of them.

3           MS. JOHNSON: Yes.

4           MR. SCHECHTER: Right.

5           THE COURT: They're two different pages.

6           MS. JOHNSON: Yes, because there's two  
7           complaint reports, so both were turned over.

8           THE COURT: So both were what?

9           MS. JOHNSON: Both were put in the packet  
10          because there was two complaint reports that were  
11          generated.

12          MR. SCHECHTER: Well, I only have, as I said,  
13          two of the three of them on one and only one of the  
14          three on the other, the second page.

15          I have nothing regarding Page 1 and 3 of the  
16          one we're talking about now, Judge.

17          THE COURT: Where is the Page 1 of -- where  
18          is Page 1 of -- you're telling me that there's two  
19          complaint reports that get generated?

20          MS. JOHNSON: I'm looking at them right here,  
21          Judge.

22          Both of the complaint reports, both Page 1,  
23          have the narrative involving the complainant. Both of  
24          them start the same, have the same information, the  
25          occurrence location, occurrence from, classification

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1 and the narrative.

2 THE COURT: Now, that hasn't been provided as  
3 part of the Rosario, yes?

4 MR. SCHECHTER: Has not.

5 MS. JOHNSON: That has not. There was no  
6 information in there other than the victim's  
7 information and the narrative.

8 THE COURT: Is that what I just looked at a  
9 moment ago?

10 MS. JOHNSON: Yes, Judge.

11 THE COURT: So I ruled that that appeared,  
12 from my standpoint, to be dealing just with statements  
13 the complainant may have made.

14 MS. JOHNSON: Page 2 with regards to both  
15 complaint reports has the reporter information and the  
16 wanted information and the defendant's personal  
17 information that counsel has in his hands right now, in  
18 his left hand.

19 MR. SCHECHTER: Right. That's the first one.  
20 We already disposed of that.

21 I'm talking about the second one with the  
22 blackened out material Page 2 of three. I don't know  
23 what three of three is on that.

24 MS. JOHNSON: Page 3 is exactly the same as  
25 Page 2 of the other report.



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1 THE COURT: Well, there's a three of three  
2 that I have and that's where it says end of complaint  
3 report.

4 MS. JOHNSON: Yes, Judge. That is the same.  
5 In fact, it has less information than Page 2 of 3.

6 If counsel wants to just take a look at it, I  
7 mean, I'll show it to him, but he has it.

8 THE COURT: Let me ask you this.

9 Why was there two Page 2s, if you will,  
10 generated out of a complaint report?

11 MS. JOHNSON: I believe it's because when  
12 they generate the reports, once the supervisor approves  
13 them more information is put at the bottom, which is  
14 why Page 2 of the other report has all the supervisor's  
15 information. It's sort of like the unauthorized versus  
16 authorized.

17 So they both have all the exact same  
18 information, it's just lined up on the page differently  
19 and the final report has the sergeant's name.

20 THE COURT: Can I just see these?

21 MS. JOHNSON: Sure.

22 THE COURT: Because you make it very, very  
23 difficult when you start, you know, extracting, you  
24 know, pages out because it becomes apparent that there  
25 looks like there are things that are missing.

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1 I'm not claiming anyone is doing it  
2 intentionally.

3 MS. JOHNSON: What I should have done was  
4 give all the pages with redactions instead of pulling  
5 the pages out.

6 THE COURT: Right.

7 MS. JOHNSON: So I'm going to give the Court  
8 all of the complaint reports that I have.

9 MR. SCHECHTER: I have a few other issues,  
10 Judge, but let's get through this first.

11 MS. JOHNSON: I'm sorry, here is the first  
12 page that your Honor already looked at.

13 (Shown to Court.)

14 THE COURT: All right, this I've seen.

15 (Pause in the proceedings.)

16 THE COURT: Well, you know what I'm going to  
17 direct the People to do because, quite frankly, this  
18 shouldn't be me doing this, I'm going to direct the  
19 People to put together whatever these complaint reports  
20 are, whatever order they were in in terms of the pages.

21 MS. JOHNSON: Of course.

22 THE COURT: Whatever you feel you need to  
23 redact, I want you to indicate that to me.

24 MS. JOHNSON: Okay.

25 MR. SCHECHTER: Your Honor, I'm truly

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1 cognizant and I appreciate the Court's direction,  
2 however, for the life of me, I don't understand why  
3 counsel just, since I'm going to require them  
4 eventually anyway, provide me with the Rosario material  
5 for the witnesses so we could avoid all this.

6 THE COURT: That would seem to be the easiest  
7 way of dealing with it, which I recognize.

8 I'm not going to force the People -- having  
9 said that, I'm not going to force them to give over  
10 Rosario, at least with respect to the first page.

11 In all fairness, I don't think they're  
12 entitled -- or required, at this point, to provide to  
13 you.

14 I understand your point.

15 MR. SCHECHTER: All I'm saying, your Honor,  
16 is all this does is exacerbate the length of time and  
17 the delay in this case because I then have to look at  
18 this stuff.

19 MS. JOHNSON: I'll give him everything. I'll  
20 just redact the narrative, that's what I'll do, if I  
21 could use the copy machine I'll make copies for  
22 everyone.

23 THE COURT: Yes.

24 MR. SCHECHTER: Before she goes, there's  
25 more.

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1 THE COURT: What else is there,  
2 Mr. Schechter?

3 MR. SCHECHTER: The complaint follow-up  
4 reports, I was given two of them.

5 Now, I would direct the Court's attention to  
6 the right side of the top of the page, the second box  
7 down, it says follow-up number.

8 I have follow-up Number 3 and I have  
9 follow-up complaint report Number 4.

10 I do not have follow-up Number 1 or Number 2.

11 MS. JOHNSON: Can I take a look at that?

12 MR. SCHECHTER: Sure.

13 (Shown to counsel.)

14 MS. JOHNSON: Which ones are you missing?

15 MR. SCHECHTER: I don't have follow-up report  
16 Number 2 or 1, complaint follow-up reports Number 1 and  
17 2.

18 MS. JOHNSON: I have those. They're exactly  
19 the same.

20 If he wants I'll give him a copy -- and you  
21 don't have 4?

22 MR. SCHECHTER: Number 1, I don't have.

23 MS. JOHNSON: I'll give them to him. They're  
24 the same. If anything, they're missing information  
25 that was provided to him in the other ones.

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1 THE COURT: So give it to him.

2 MS. JOHNSON: That's fine.

3 THE COURT: What else Mr. Schechter?

4 MR. SCHECHTER: If the Court please, I do not  
5 have a copy of the activity log which, in my  
6 understanding, is routinely filled out by the police  
7 officer, including the desk sergeant's note of entries  
8 as to when my client came into the precinct, which is  
9 required when someone comes into the precinct and  
10 arrested. There's always a log entry made of it. I  
11 don't have that. It's very important in the context of  
12 this case.

13 I did not see complaint report entitled  
14 Police Department PD 313-152, which is a complaint  
15 report. Now, Police Department documents are normally  
16 numbered in that kind of way. I did not see that  
17 document.

18 I did not see the New York State standardized  
19 domestic incident report. That is called DCJS 3221.  
20 That is mandated by Police Department regulations  
21 procedure Number 208-36.

22 Counsel had indicated, I think, that report  
23 of suspected child abuse form was not filled out  
24 because ACS was at the precinct.

25 However, Police Department regulations

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1 require that PD 377-154, which is report of suspected  
2 child abuse, if same is done, must be prepared.

3 Additionally, the report to the patrol  
4 supervisor, I have not gotten that.

5 The domestic report incident log, I did not  
6 get that.

7 Now, I don't know if an online booking system  
8 arrest work sheet was done. If so, I have not gotten  
9 that.

10 And I think we've ascertained, and I'm going  
11 to ask the police officer if he knows, whether the  
12 commander had, in fact, told him he was going to make a  
13 recommendation for a commendation in his record. That  
14 we have to ascertain on the witness stand.

15 But those other documents I haven't gotten,  
16 Judge.

17 MS. JOHNSON: Judge, the DIR and the  
18 complaint reports will be disclosed at trial. It's all  
19 narrative with regards to the complainant.

20 I'm looking now at some of the documents  
21 counsel had requested, including the complaint  
22 follow-up report Number 1.

23 Judge, this I'm going to ask the Court, if  
24 the Court wants to review it, that I not turn it over.  
25 It's Detective Schulman 's follow-up report. It is all

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1 about the contact with ACS and conversations with the  
2 complainant and his conversations with a detective. It  
3 has nothing to do with the defendant's statements.  
4 It's all about conversations with the victim and  
5 adult -- I don't know if it's CPS or --

6 THE COURT: Can I see it?

7 MS. JOHNSON: Of course.

8 THE COURT: What about the activity log  
9 Mr. Schechter spoke about first?

10 MS. JOHNSON: Detective Schulman does not  
11 generate information into that activity log. I had  
12 asked him before, in fact, if there was, like a time  
13 log, like the PD has here?

14 THE COURT: Right.

15 MS. JOHNSON: He says that if it does get  
16 generated it gets done by either the desk sergeant --  
17 it was not done by the officer and it was not done by  
18 this detective.

19 He said there is no formal log like we have.  
20 Sometimes there's a card that gets filled out, but he  
21 did not prepare one and, according to my conversations  
22 with Officer Alfaro, she did not prepare one either.

23 MR. SCHECHTER: Here's the problem.  
24 Detective Schulman was not the arresting officer nor  
25 was he the first one on the scene when my client came

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1 into the precinct.

2 The time when my client came into the  
3 precinct is an important issue in this matter. It is  
4 my understanding that Sergeant O'Hagan being the desk  
5 sergeant who participated in the arrest, according to  
6 this complaint follow-up sheet, had to complete this  
7 documentation and put down the time that my client came  
8 into the precinct and when the arrest took place.

9 Short of subpoenaing Sergeant O'Hagan, I want  
10 that desk log -- desk book. Any time someone comes  
11 into the precinct there's a desk entry made of it.  
12 There has to be by New York City police regulation. I  
13 need the time when that happened.

14 THE COURT: All right, is Detective Schulman,  
15 Ms. Johnson, saying that there was no recording of when  
16 the defendant came into the precinct?

17 MS. JOHNSON: He doesn't have any -- he  
18 didn't prepare anything and he didn't generate anything  
19 into a logbook.

20 The way he knows the time is based on, like  
21 when he testified the sergeant came to him to tell him  
22 that the defendant had walked into the precinct. So  
23 whether or not the sergeant generated one, I don't  
24 know. I haven't spoke to the sergeant.

25 THE COURT: Well, it would seem to me,

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1 particularly since we've just now watched the videotape  
2 that was taken of the defendant, that appears to be  
3 done sometime, I think, in the late 5 afternoon on the,  
4 I think, the 24th of June.

5 It sounded as though, you know, in our  
6 conference when the case initially came over, that  
7 there's going to be some claim made, I'm assuming, that  
8 these statements were somehow involuntarily made or the  
9 product of some type of coercion, duress, etcetera.

10 MR. SCHECHTER: Yes.

11 MS. JOHNSON: Which is why I was going to say  
12 to your Honor that I anticipate now, based on counsel's  
13 arguments, if I have to call the sergeant as a witness  
14 at the hearing I will advise him to bring any log that  
15 exists.

16 THE COURT: Well, I think whether or not you  
17 call the sergeant or not, it would be my position that  
18 Mr. Schechter is entitled to that activity log,  
19 particularly given the fact that we're talking about at  
20 least a 12-hour time period that the defendant is in  
21 the custody of the police department or 105th Precinct  
22 and I would direct the People provide that.

23 MS. JOHNSON: Yes, Judge.

24 MR. SCHECHTER: Thank you, Judge.

25 MS. JOHNSON: As to the complaint follow-up,

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1 follow up Number 2 --

2 MR. SCHECHTER: 1 and 2. I believe you  
3 said --

4 MS. JOHNSON: I believe your Honor has 1 in  
5 his hands.

6 THE COURT: I have complaint follow-up  
7 Number 1, yes. I have follow-up Number 1.

8 MS. JOHNSON: Follow-up Number 2 I have is  
9 all regarding contact with the complainant conversation  
10 with the complainant, narrative about the interview  
11 with the complainant, nothing about contact with the  
12 defendant.

13 I'll provide that to your Honor as well.

14 (Shown to Court.)

15 MS. JOHNSON: Would your Honor like me to go  
16 and make copies of the arrest reports?

17 THE COURT: Yes, please.

18 (Pause in the proceedings.)

19 MS. JOHNSON: Your Honor, I gave counsel, I  
20 handed up a copy to the Court, I didn't even bother  
21 redacting -- he now has all the complaint reports and  
22 arrest reports. I now have Detective Schulman outside  
23 calling the 105 command pulling the log for that day.  
24 He has my fax number. If he has it before the end of  
25 the hearing today he will fax that over.

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1 MR. SCHECHTER: While we're on it, now that  
2 we have this material - I thank counsel for providing  
3 me this material - did she ascertain whether or not a  
4 domestic incident report was done as per the procedure  
5 regulation that I outlined or whether a --

6 THE COURT: Was there a DIR report done?

7 MS. JOHNSON: Yes, Judge, it's in my file.  
8 It's the narrative of the complainant -- it's her 32B.

9 THE COURT: Do you want to hand it up to me?

10 MS. JOHNSON: Sure.

11 THE COURT: Insofar as the complaint  
12 follow-up reports, I've had an opportunity to look at  
13 them, Mr. Schechter. They are, for the most part,  
14 interviews with the complainant and the ACS worker or  
15 investigator, I should say, and hospital -- someone at  
16 a hospital that the complainant treated at on  
17 June 24th.

18 They would not appear to me, at this point,  
19 to be Rosario for any of these witnesses.

20 (Shown to Court.)

21 THE COURT: Can you just give this back to  
22 the DA?

23 (Shown to counsel.)

24 THE COURT: Now, what did you hand up to me  
25 now?

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1 MS. JOHNSON: The four-page DIR, your Honor.  
2 I believe it's four pages..

3 THE COURT: And, likewise, Mr. Schechter,  
4 with the domestic incident report, it appears as though  
5 that it is, as the People represent, a 32B of the  
6 complainant in this case as well as another police  
7 officer that actually generated the narrative report on  
8 the front of it.

9 It's not Detective Schulman or  
10 Detective Alfaro, so -- and I would not consider it to  
11 be Rosario at this time.

12 Anything else?

13 MR. SCHECHTER: Not at this time, your Honor.

14 I believe the officer is checking out the  
15 activity log.

16 Is that what we're waiting on?

17 THE COURT: Well, we're not waiting on it.  
18 He's going -- I believe he called the 105 Precinct. If  
19 you need him back for further cross, I'll certainly  
20 direct the People to do that.

21 MR. SCHECHTER: Okay.

22 THE COURT: Can I just ask the People one  
23 question?

24 And I appreciate, Ms. Johnson, you were on  
25 trial for, I think it was, close to a month.

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1 MS. JOHNSON: April 1st to the 30th.

2 THE COURT: Was there any indication or  
3 representation made before this case came to this part  
4 that you had or had not had an opportunity to gather  
5 this Rosario material in this case and go over it with  
6 the police officers?

7 MS. JOHNSON: Could we go off the record for  
8 a minute?

9 THE COURT: No, I would like to have it on  
10 the record.

11 MS. JOHNSON: Judge, my --

12 THE COURT: Because at this point it appears  
13 to me that, you know, this matter is not ready for  
14 hearing in the sense that we're now spending more time  
15 going over Rosario material than we are going over  
16 testimony at this point.

17 MS. JOHNSON: Your Honor, my verdict came in  
18 on Tuesday, April 28th.

19 On the 29th my case was on before  
20 Judge Donnino for a conference. I was not at work on  
21 the 29th.

22 When I came into work on the 30th I was  
23 advised I was having a hearing and police officers and  
24 detectives were going to be in my office at 2 o'clock  
25 in the afternoon for purposes of hearing.

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1 THE COURT: And prior to that time is the  
2 first time you started gathering Rosario material in  
3 the case or somebody from your office gathered Rosario  
4 material --

5 MS. JOHNSON: I had some of the Rosario  
6 material at the time of grand jury, but obviously  
7 because there was another DA's Office that was handling  
8 the other matter I did not have a complete detective's  
9 jacket at the time of grand jury.

10 What I had was some of the complaint reports,  
11 some of the arrest reports. I did not have everything  
12 at the time. That's why I had the DA's Office from  
13 Queens faxing over stuff to my office yesterday  
14 because --

15 THE COURT: So that is actually -- some of  
16 this Rosario material is coming from the Queens DA's  
17 Office, not necessarily the Police Department.

18 MS. JOHNSON: Oh, yes. I did not have all of  
19 it. Whatever was in Shulman's case jacket I had almost  
20 all of it at the time of grand jury and all of that was  
21 turned over last week when we came here for the  
22 hearing.

23 But the stuff that was turned over today,  
24 such as some of the property invoices, I got that from  
25 the from the arresting officer this morning.

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1           Apparently, the way the NYPD handles their  
2 paperwork, is unlike Nassau. Everything isn't in the  
3 case jacket. The arresting officers have their own  
4 files, which is why this morning, I apologize for not  
5 being here at 9:30, a lot of this online booking  
6 information I got this morning. I had never seen or  
7 spoken to the arresting officer.

8           THE COURT: Well, when the matter was sent  
9 out for hearing on the -- was it the 28th or the 29th?

10          MS. JOHNSON: It had been sent out before  
11 then, but I was on trial so we were sent back to  
12 Judge Donnino on the 29th when I was out of the office  
13 that day.

14          THE COURT: All right, Mr. Schechter,  
15 obviously you may have been more privy to what was  
16 going on before this matter went out.

17               Was there any discussions during the  
18 conferencing of this case that -- about the Rosario  
19 material and whether or not all this material was going  
20 to be available prior to the hearing being started  
21 instead of it being doled out, as it is now, by  
22 piecemeal?

23          MR. SCHECHTER: I was directed by  
24 Judge Donnino to make this application before your  
25 Honor.

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1 THE COURT: What application?

2 MR. SCHECHTER: Any Rosario issues were to be  
3 made before your Honor.

4 MS. JOHNSON: When I was on trial there was  
5 one day in the middle of my trial when I met with  
6 Mr. Schechter in Judge Donnino's chambers and there was  
7 issues coming up about the Rosario.

8 I had advised Judge Donnino in  
9 Mr. Schechter's presence I had not yet received a  
10 complete Queens DA's file that had Rosario material.

11 Mr. Schechter raised the issue and said he  
12 believed it was Rosario and I agreed with Mr. Schechter  
13 that not only was it Rosario, but obviously for trial I  
14 would want a complete file.

15 This conversation happened, I believe, two  
16 weeks ago while -- or maybe a week ago while I was on  
17 the trial with the other matter.

18 MR. SCHECHTER: Several -- counsel is  
19 correct. Several of these issues were raised before  
20 Judge Donnino while counsel was in the middle of trial  
21 and came by to try to, at least, answer on behalf of  
22 her office, you know, when this case was called.

23 But since she was in the middle of a trial  
24 she just had no means of securing all of this  
25 documentation at this point.



Proceedings

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1 THE COURT: And when it was, on the 28th, you  
2 were, what, still on trial?

3 MS. JOHNSON: My verdict came in on the 28th  
4 around 4:30, I believe. It was way after lunch.

5 MR. SCHECHTER: My issue is not with counsel,  
6 your Honor, my issue is with her office. Her office  
7 should have done everything possible to have this  
8 material available for her.

9 MS. JOHNSON: Your Honor, we had --  
10 Judge Donnino knew that I was on trial. When we were  
11 on in his part we were told we were going from hearing  
12 directly into trial --

13 THE COURT: Let me ask you this.

14 The two weeks you said before -- when you  
15 were in Judge Donnino's part two weeks before this case  
16 got sent out, did he or somebody from his office tell  
17 you at that time that on April 29th this thing is going  
18 out for hearing and trial?

19 MS. JOHNSON: He actually told me that on  
20 April 27th because he assumed I was going to have a  
21 verdict that day and while I was in chambers in the  
22 presence of counsel my exact words were, "Judge, I  
23 would like to have a day to catch my breath," and I  
24 took off the next day and I came back and we were  
25 scheduled for hearings.

Proceedings

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1 THE COURT: So when was the first time you  
2 found out that this thing was going to hearings and  
3 trial?

4 MS. JOHNSON: Sometime in April.

5 THE COURT: You have to narrow it down a  
6 little bit.

7 MS. JOHNSON: I don't know because I was on  
8 trial the whole month of April and when I had indicated  
9 that I didn't know at that time what my witnesses'  
10 availability was, Judge Donnino insisted it was going  
11 from hearing to trial.

12 When we had this conversation, I didn't have  
13 all the Rosario material, I didn't have all the  
14 paperwork and I was on trial, I couldn't get it all at  
15 that time.

16 THE COURT: Well, you know, as I indicated,  
17 we're now spending more time trying to figure out what  
18 Rosario material has been generated, what Rosario  
19 material has been turned over, all of which I would  
20 think, to a certain extent -- I understand there's  
21 going to be Rosario material that may come available as  
22 you're speaking to witnesses, I mean, that's to be  
23 expected.

24 I mean at this point, since I understand and  
25 I'm not finding fault with you, necessarily, that

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1       there's another jurisdiction that's involved, you may  
2       not be familiar with the type of paperwork and material  
3       that they generate, but, you know, certainly your  
4       supervisors, who I have enormous amount of respect for,  
5       both came out of the Queens DA's office, I would think  
6       more than anybody, they would be familiar with the fact  
7       that, look it, this material is going to have to be  
8       gathered and ready to be distributed, there's going to  
9       be applications to have it redacted.

10               MS. JOHNSON: And, in defense of them, when I  
11       was out on Wednesday they did contact and arrange for  
12       the detective, the officer, to come, which is how it  
13       was that I knew that they were subpoenaed before. They  
14       contacted the Queens DA, but --

15               THE COURT: Let me ask you, did you know  
16       during the course of your trial that as soon as you got  
17       off trial in your other case your you were going to be  
18       going into hearings and trial?

19               When did you find that out?

20               You still haven't answered that.

21               MS. JOHNSON: We were told by Judge Donnino  
22       we were going from hearings into trial.

23               However --

24               THE COURT: When?

25               MS. JOHNSON: I don't know when it was.

ws

## Proceedings

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1                   However, as your Honor knows, I was in the  
2 middle of pretrial in another matter, People versus  
3 Mark Hercules.

4                   When Judge Donnino put me on trial with the  
5 last trial I was on, I reminded the Court that I had  
6 back-to-back trials that were scheduled with an  
7 incarcerated defendant and this matter had been sent  
8 there.

9                   His honor, Judge Donnino, had indicated to  
10 me, "You're going to try that other case first," and  
11 trials got backed up.

12                   Because of that, Mark Hercules was assigned  
13 to another prosecutor in anticipation of, per Judge  
14 Donnino, this case going to trial first.

15                   When we were -- when he advised we were going  
16 directly from hearing into trial, I believe the first  
17 time that happened was in April while I was on trial.

18                   THE COURT: And what did you do when he told  
19 you that?

20                   MS. JOHNSON: I had advised him, Judge, going  
21 hearing into trial, I said, "Judge, I don't know if  
22 personally I am going to be ready. I don't know if  
23 myself I could be ready," but I was on trial and, in  
24 fact, we had another control date which on -- because I  
25 did take notes of this because I was concerned that

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1 something would happen.

2 THE COURT: Like this would happen?

3 MS. JOHNSON: On April 16th we conferenced  
4 the case with Judge Donnino and counsel in chambers and  
5 was marked control for trial April 22nd.

6 The Court also indicated the Court wanted an  
7 April 28th trial as his Honor had indicated I would  
8 probably have a verdict by then, which I did not.

9 In fact, I was still on trial that full day  
10 of the 28th.

11 On April 27th we were back in chambers and I  
12 advised the Court that I needed to check the  
13 availability of the New York City police officers and  
14 the Court indicated -- actually, while we were in  
15 chambers the Court indicated we were going directly  
16 from hearing to trial.

17 Then when we went on the record I advised the  
18 Court I did not know my witnesses' availability as I  
19 did not have control over them because they were  
20 New York City police officers. The Court had forgotten  
21 about that. This was all before my verdict came in.

22 Then the Court put it on, I believe, for  
23 control on the 29th --

24 THE COURT: And on the 28th you got your  
25 verdict.

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1 MS. JOHNSON: I think at 4:30 or late in the  
2 afternoon and, in fact, while counsel was in chambers I  
3 had said to the Court, and the Court didn't have a  
4 problem with the fact, that I was going to ask for a  
5 couple of days to get everything together.

6 I don't know if the Court meant a couple of  
7 days for the hearing or a couple of days from hearing  
8 into trial, but I believe counsel was also there when  
9 my exact words were, "Judge, I want a couple of days to  
10 catch my breath to get everything together because,  
11 again, I don't know my witnesses' availability."

12 THE COURT: Well, then when did you start  
13 gathering the Rosario material?

14 MS. JOHNSON: I had some stuff at the time of  
15 grand jury. Everything else I got on Thursday the  
16 30th, when the detective came in with his case jacket  
17 on that same day.

18 THE COURT: At that point you had been sent  
19 out for hearings at that point because we started this  
20 on the 30th.

21 MS. JOHNSON: Yes, Judge. The detective was  
22 subpoenaed, came to my office around 1 o'clock, I  
23 copied his case jacket and we began the hearings in  
24 that afternoon.

25 Today was the first day I met with

WS

## Proceedings

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1 Officer Alfaro to gather her Rosario material that I  
2 provided to counsel.

3 Friday as well, I believe, whatever the time  
4 of the fax is, was the first time I received the  
5 Rosario that was from the Queens DA's Office.

6 I had requested a day or two adjournment  
7 through my office, if it would be possible, and I don't  
8 know what conversation transpired between my bosses and  
9 Judge Donnino, but apparently an adjournment was not a  
10 possibility.

11 THE COURT: Okay.

12 Mr. Schechter, does that square with what --  
13 I know you're more concerned, and justifiably so, about  
14 making sure you get everything you're entitled to.

15 MR. SCHECHTER: The minutia of our  
16 conversation with Judge Donnino, I don't recall every  
17 one, but I do know Judge Donnino was very, very  
18 strongly pushing this matter forward for trial and was  
19 not really sympathetic with any adjournments and kept  
20 this matter on a very tight leash, adjournments no more  
21 than a week at a time, so that we could monitor  
22 counsel's trial and what was happening.

23 So I do know that Judge Donnino was pushing  
24 this very strongly for trial.

25 I do not have -- there's a few other things I

ws

## Proceedings

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1 have here from counsel (sic).

2 I don't have external photos of subject's  
3 vehicle which apparently were taken, meaning my  
4 client's car, which is relevant to this hearing.

5 And Shulman has memo book entries, I have  
6 those, but I don't know if these are the same as the  
7 handwritten notes because they make reference to  
8 Shulman's handwritten notes. I don't know if they're  
9 the same thing or not, but certainly I would be  
10 entitled to those things as well.

11 MS. JOHNSON: Judge, one other thing that  
12 occurred during our conferencing was that there was  
13 significant -- I don't want to speak for counsel, but  
14 there was significant agreement on both my part and  
15 counsel's part that it would be more appropriate for  
16 the Queens matter to occur first and obviously  
17 Mr. Schechter, correct me if I'm wrong, that was  
18 certainly not a possibility.

19 THE COURT: Well, you know, look it, I can  
20 appreciate being on trial for the length of time that  
21 you were, but unlike perhaps, Mr. Schechter, and I  
22 don't even know whether he is or is not, you're not a  
23 solo practitioner, you have an office, you have staff.

24 It sounds as though, to me, that the alarm  
25 bells were being run while you were in the middle of



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1 that other trial and, you know, certainly to be now in  
2 the middle of this hearing and be getting stuff while  
3 witnesses are on the witness stand, and I'm not talking  
4 about a page here or a page there, I'm talking about in  
5 excess of ten or 15 pages that you handed over this  
6 morning, you know, really shouldn't be happening and,  
7 you know, at this point, the way things are going, I  
8 figure we'll be doing this hearing for the rest of this  
9 week.

10 So I'll try to move it along, but to me the  
11 way this thing is -- as I said, more discussion about  
12 Rosario material and we haven't even gotten to the  
13 cross-examination of one witness yet.

14 You're now indicating you may be wanting to  
15 call a third witness in the case. You don't know  
16 whether or not he or she has generated Rosario  
17 material.

18 We'll have to deal with the schedule as  
19 things go on, but I'm just a little bit perplexed about  
20 how ready this thing really is, quite frankly.

21 MR. SCHECHTER: There's another interesting  
22 issue, I find it interesting anyway, and that is the  
23 issue as to if my client does testify in this matter,  
24 the extent and parameters of the cross-examination.

25 My client has a prior disorderly conduct and

ws

## Proceedings

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1           that is -- a Sandoval application has to be made before  
2           your Honor with respect to that one prior. It's a  
3           disorderly conduct. I think it was on a shoplift  
4           several years ago, which has nothing to do with this  
5           case.

6                       Additionally, if the Court recalls, the  
7           motion in limine that I submitted to the Court citing,  
8           I think, two Court of Appeals opinions and a lower  
9           court opinion with respect to the use of  
10          currently-charged allegations, which are proscribed by  
11          the Court of Appeals, would also affect what elements  
12          of the confession should be -- were the Court to  
13          consider that the confessions were legally obtained,  
14          what parts of the confessions would be utilized because  
15          the Court -- because counsel can't do indirectly what  
16          she can't do directly; namely, she can't cross-examine  
17          him about pending cases and therefore she can't put in  
18          on her direct examination the information concerning  
19          pending cases.

20                      So what we're going to need to do is an in  
21          limine hearing or conference to determine what, if any,  
22          parts of that confession could be introduced.

23                      THE COURT: And I'm aware of it, I'm  
24          sensitive to it. My law secretary is looking at the  
25          material. Obviously, you gave it to me this morning

Shulman - People - cross

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1 and I haven't even had a chance to look at it.

2 Insofar as your client testifying at the  
3 hearing, I'm not of a mind-set to allow some type of  
4 freewheeling cross-examination that's going to go  
5 beyond the parameters of what you elicited on your  
6 direct examination and you can be guided accordingly  
7 with that.

8 MR. SCHECHTER: Okay.

9 THE COURT: So, in the meantime, let's get  
10 Detective Shulman up here.

11 (Witness resumes the stand.)

12 MS. JOHNSON: Your Honor, Detective Shulman  
13 just advised me the logbook is being faxed over to my  
14 office.

15 THE COURT: Okay, great.

16 THE WITNESS: Good afternoon, your Honor.

17 THE COURT: Good afternoon.

18 All right, Mr. Schechter, whenever you're  
19 ready.

20 MR. SCHECHTER: May it please the Court,  
21 counsel.

22 CROSS-EXAMINATION

23 BY MR. SCHECHTER:

24 Q. Detective Shulman, good afternoon.

25 Detective Shulman, what is your age?

Shulman - People - cross

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1 How old are you?

2 A. Thirty-seven.

3 Q. And you indicated that you were a police officer  
4 for 15 years?

5 A. A little over that, yes.

6 Q. Did you have any occupation before you were a  
7 police officer?

8 A. Part-time work. I wouldn't say career.

9 Q. What did you do before you became a police  
10 officer?

11 A. I was a security guard in Maryland.

12 Q. How long did you have that job?

13 A. Year and a half, maybe.

14 Q. Are you a native New Yorker or do you come from  
15 Maryland?

16 A. I'm a native New Yorker.

17 Q. Okay, and you've indicated you had some training  
18 at the academy with respect to interrogation of prisoners  
19 and interviews of complainants and things of that nature,  
20 would that be fair to say?

21 A. I don't know if I've indicated to that, but that  
22 would be accurate, though.

23 Q. Did you -- were you taught the Reid method of  
24 interrogation, R-e-i-d?

25 A. Not that I can specifically say.

Shulman - People - cross

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1 Q. You spent how many years in anti-crime?

2 A. Almost five in a citywide anti-crime unit.

3 Q. Was that any specific detail, narcotics related or  
4 street muggings?

5 What, specifically, were your assignments there?

6 A. Violent street crimes.

7 Q. And in the times that you were an anti-crime  
8 officer were you working under a silver shield or a gold  
9 shield?

10 MS. JOHNSON: Objection.

11 THE COURT: Yes.

12 MR. SCHECHTER: I'll rephrase.

13 Q. Were you a detective or patrolman?

14 A. I was both at varying different times.

15 Q. Well, were you first a patrolman and then a  
16 detective or were you a patrolman, detective, patrolman?

17 How did that work?

18 A. I was a patrolman and then I was promoted to  
19 detective.

20 Q. While on the anti-crime unit?

21 A. Yes.

22 Q. And in your duties as an anti-crime officer did  
23 you have occasion to utilize informants?

24 MS. JOHNSON: Objection.

25 THE COURT: Yeah, sustained.

Shulman - People - cross

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1 Q. Did you become accustomed to being able to turn  
2 people into informants by virtue of your experience and your  
3 training?

4 MS. JOHNSON: Objection.

5 THE COURT: Yeah, sustained.

6 Q. Approximately what percentage of your arrests  
7 generated confessions and inculpatory statements, detective?

8 MS. JOHNSON: Objection.

9 THE COURT: As?

10 Q. As an anti-crime officer?

11 THE COURT: If you know.

12 A. I don't know that I could answer that.

13 Q. Would it be more than 10 percent?

14 THE WITNESS: I honestly don't know that I  
15 could put a number on it, your Honor?

16 THE COURT: Okay.

17 Q. How many times have you testified in court?

18 MS. JOHNSON: Objection.

19 THE COURT: I'll allow that.

20 You can answer that.

21 A. Again, I don't know that I could put a number on  
22 it, but, you know, over the course of 15 and a half years,  
23 many times.

24 Q. Many times.

25 It would be more than 20?

Shulman - People - cross

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1 A. Probably.

2 Q. More than 30?

3 A. Probably.

4 Q. And what percentage of those involved your taking  
5 of statements?

6 MS. JOHNSON: Objection.

7 THE COURT: Yeah, sustained.

8 MR. SCHECHTER: I'll except to that one,  
9 Judge.

10 THE COURT: Yes.

11 Q. Did you -- now, on the day in question you  
12 indicated, I believe, on direct examination you were working  
13 a 4:30 to 1 o'clock tour?

14 A. Yes, I did.

15 Q. Had you made an arrest prior to the end of your  
16 tour besides -- not including Mr. Gopaul?

17 A. I had not, no.

18 Q. So that your tour of duty was scheduled to expire  
19 at 1 a.m. in the morning, would that be correct?

20 A. Yes.

21 Q. And you were working what detail?

22 Was that anti-crime you were working that night?

23 A. On the night of Mr. Gopaul's case?

24 Q. Yes, yes.

25 A. No, I was assigned to the 105 Precinct detective

Shulman - People - cross

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1 squad as an investigator.

2 Q. And, basically, you were there to pick up whatever  
3 came in, would that be fair to say?

4 A. I don't know that I would use those words.

5 Q. Now, you've indicated that your tour ended at  
6 1 o'clock, correct?

7 A. My scheduled tour would have been over at  
8 1 o'clock.

9 Q. Scheduled tour.

10 And there came a time when you were informed that  
11 Mr. Gopaul came into the precinct, is that correct, yes or  
12 no?

13 A. That's correct.

14 Q. And who informed you of that?

15 A. Sergeant O'Hagan, the 105 Precinct desk officer.

16 Q. Where is the desk officer in relation to the squad  
17 within the 105 Precinct?

18 A. They're on the first floor, I'm on the second  
19 floor.

20 Q. And were you present during Mr. Gopaul's arrest?

21 A. No.

22 Q. And do you know who was present during  
23 Mr. Gopaul's arrest?

24 A. I don't know, aside from Sergeant O'Hagan.

25 Q. Well, when you first met Mr. Gopaul where was he?

ws



Shulman - People - cross

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1 A. He was in one of my interview rooms in the  
2 detective squad office.

3 Q. To your knowledge, had he been fingerprinted and  
4 had his mugshot taken?

5 A. No, he had not.

6 Q. Was he under arrest?

7 A. Yes, he was.

8 Q. What time did you first see Mr. Gopaul, if you can  
9 recall?

10 A. Right about 5:10 a.m. on the morning of the 24th  
11 of June.

12 Q. Officer, if your tour of duty ended at 1 o'clock,  
13 what were you doing between 1 a.m. and 5:10 a.m.?

14 A. I don't know what I was initially doing after  
15 1 o'clock in the morning, to my recollection, but at some  
16 point in time I had been notified by a detective at the  
17 detective bureau in Queens that there was an incident being  
18 investigated by patrol in the 105 Precinct and that  
19 Administration for Children's Services known as ACS --

20 MR. SCHECHTER: Objection, Judge, that's not  
21 responsive to my question.

22 Q. My question was, what were you doing between  
23 1 a.m., end of your tour of duty, and 5:10 a.m.?

24 What were you doing?

25 THE COURT: I think he was telling us.

ws

Shulman - People - cross

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1 The objection is overruled.

2 Go ahead.

3 A. Okay, initially, I don't know what I was doing at  
4 exactly 1 o'clock, but at some point in time I was notified  
5 that an ACS worker was in the precinct interviewing a victim  
6 that was alleging some sort of sexual complaint involving  
7 her stepfather and that an investigator should assist in the  
8 investigation.

9 Q. What time were you informed of that?

10 THE WITNESS: I would have to refer to my  
11 report, your Honor.

12 Q. Would you please look at your notes and I would  
13 like to see what it is you're looking at as well?

14 A. Sure, absolutely. Okay, just referring to my  
15 complaint follow-up report labeled as follow-up Number 1 and  
16 I had noted the time at about 0230 in the morning that I was  
17 informed.

18 Q. So at 2:30 a.m. you were first informed of ACS  
19 investigating suspected child abuse or something like that,  
20 would that be fair to say?

21 A. A complaint involving a sexual complaint that  
22 involved ACS also.

23 Q. Okay, so what were you doing from 1 a.m. to 2:30  
24 at the precinct?

25 A. I don't recall specifically.

WS

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1 Q. When you put in for your overtime did you put in  
2 for your overtime from 1 a.m. or from 2:30 p.m.?

3 A. I would imagine it would have been from 1 a.m.

4 Q. So that you put in for overtime for what, from 1  
5 to 2:30 a.m.?

6 A. I don't recall specifically. I would have to  
7 check into it.

8 Q. Isn't it a fact that Harold Gopaul came into the  
9 precinct at 2:30 a.m.?

10 Isn't that a fact?

11 A. Not to my knowledge.

12 Q. Isn't it a fact that Sergeant O'Hagan, together  
13 with eight other officers, pummeled Mr. Gopaul in the  
14 precinct, spread-eagled him over a rail and beat him up?

15 Is that a fact?

16 A. Not to my knowledge and I would find it highly  
17 unlikely.

18 MR. SCHECHTER: May I have this marked,  
19 please, as Defendant's A?

20 (Defendant's Exhibit A marked for  
21 identification.)

22 MR. SCHECHTER: May I have that?

23 (Shown to counsel.)

24 Q. Now, officer, you keep a memo book as part of your  
25 required record keeping consistent with your duties as a

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Shulman - People - cross

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1 police officer, correct?

2 A. At various points in my career, yes.

3 Q. Do you still keep a memo book?

4 A. Yes.

5 Q. You have it with you?

6 A. No.

7 Q. Were you told to bring it today?

8 A. Not specifically, no.

9 Q. Now, you've testified over 20 times in a court of  
10 law, have you not?

11 A. Yes.

12 Q. And during those times you testified in a court of  
13 law weren't you directed to bring your memo book with you by  
14 the District Attorney?

15 A. Not always.

16 Q. Let me show you what's being marked as Defendant's  
17 A for identification.

18 (Shown to witness.)

19 Q. Is this a copy of your memo entry?

20 A. No, it's not.

21 Q. It's not?

22 A. No.

23 Q. Did you provide this information to the District  
24 Attorney's Office?

25 A. No, I did not.

Shulman - People - cross

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1 Q. Do you know who provided that to the District  
2 Attorney's Office?

3 A. I don't know specifically who provided it to the  
4 District Attorney's Office.

5 Q. Is that first page?

6 Is that your memo book?

7 A. This is not my memo book, no.

8 MR. SCHECHTER: May I show it to the District  
9 Attorney?

10 MS. JOHNSON: It's probably Officer Alfaro's,  
11 Judge.

12 MR. SCHECHTER: May I have it, please?

13 (Shown to counsel.)

14 Q. Did you keep a memo book in connection with this  
15 case?

16 A. I don't recall making any entries other than my  
17 tour of duty in regards to this case.

18 MR. SCHECHTER: I would like this to be  
19 marked, please, as Defendant's B for identification?

20 (Defendant's Exhibit B marked for  
21 identification.)

22 MR. SCHECHTER: May I have that also?

23 (Shown to counsel.)

24 Q. Do you recall preparing or having prepared at your  
25 direction a 105 Squad complaint follow-up index sheet?

WS

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1 A. Yes.

2 MR. SCHECHTER: May I approach the witness,  
3 your Honor?

4 THE COURT: Just give it to my officer.

5 MR. SCHECHTER: Officer, please show this to  
6 the witness.

7 (Shown to witness.)

8 Q. Is that a document you prepared as part of your  
9 duties as a detective at the 105 Precinct?

10 A. Yes.

11 Q. Now, you'll -- is that document kept in the  
12 ordinary course of business of the New York City Police  
13 Department?

14 A. On some occasions, yes.

15 Q. Is it the ordinary course of business of the  
16 Police Department to keep that document?

17 A. Again, on some occasions, yes.

18 Q. And were you under a duty to maintain that  
19 document?

20 A. Pardon me?

21 Q. Were you under a business duty to maintain that  
22 document on behalf of the Police Department?

23 A. I don't know if I was under a business duty, but I  
24 did prepare it.

25 Q. Is it -- as part of your duties?

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1 A. As part of my documentation of my case, yes.

2 Q. And are the entries that are on that piece of  
3 paper, were they made basically at the same time as the  
4 incidents for which you made up those documents?

5 You made up that paper about the same time you  
6 rendered all the other paperwork in this case, did you not?

7 A. Probably not at the exact same time.

8 At some point in time I take my cumulative case  
9 and I organize it and I package it in a case folder and I  
10 document what I'm including in my case folder.

11 Q. This is within at least one or two days from the  
12 time that you did all your paperwork, would that be fair to  
13 say?

14 A. Probably.

15 Q. Okay.

16 MR. SCHECHTER: I offer this as -- in  
17 evidence, your Honor, as Defendant's B.

18 THE COURT: People?

19 (Shown to counsel.)

20 MS. JOHNSON: No objection.

21 THE COURT: Okay, so B will be received in  
22 evidence.

23 (Defendant's Exhibit B received in evidence.)

24 MR. SCHECHTER: Please show it to the  
25 witness.

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1 (Shown to witness.)

2 Q. I direct your attention to the entry marked M, as  
3 in Mary.

4 What does that say?

5 A. It says M and then it says Shulman's handwritten  
6 notes.

7 Q. I call for the production of your handwritten  
8 nets, Detective Shulman.

9 MS. JOHNSON: I have them, Judge.

10 Prior to Detective Shulman testifying I  
11 reviewed them with him. They're conversations he had  
12 with the complainant.

13 In fact, Judge, there is one page in the  
14 Rosario material that was relevant for the hearing that  
15 counsel was provided that's indicated, Number 13,  
16 Shulman's notes.

17 Does the Court wish to see the other notes?

18 THE COURT: Are you asking me to look at  
19 them, Mr. Schechter?

20 MR. SCHECHTER: I would like to see the note  
21 counsel is referring to at the very least anyway,  
22 Judge. I don't recall seeing any other handwritten  
23 entries. If she could show me what she says relates to  
24 this I would appreciate it.

25 MS. JOHNSON: It's itemized in the Rosario

WS



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1 material turned over on October -- August -- excuse me,  
2 April 30th and it says Shulman's handwritten notes --  
3 Detective Shulman notes.

4 MR. SCHECHTER: If I might see this I might  
5 be able to obviate that. All of this could have been  
6 avoided if all the Rosario was turned over.

7 MS. JOHNSON: It looks like this -- like a  
8 memo book.

9 MR. SCHECHTER: I don't recall getting that  
10 document.

11 (Shown to Court.)

12 THE COURT: What are you handing me now,  
13 Shulman's entire notes?

14 MS. JOHNSON: Yes, including the  
15 conversations with the complainant, his handwritten  
16 notes with regards to that.

17 THE COURT: All right, have you shown  
18 Mr. Schechter the one -- the page that you did provide?

19 MS. JOHNSON: I'm looking for it in here,  
20 Judge.

21 Your Honor, it is a page that says contacted  
22 June 30th, 2008. It has Mr. Schechter's name on it.  
23 It's actually handwriting.

24 MR. SCHECHTER: I didn't know. It was just  
25 nondescript.

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1 THE COURT: I'm sorry.

2 MR. SCHECHTER: I did not know that that was  
3 the officer's handwriting. There was nothing to  
4 indicate where this came from.

5 MS. JOHNSON: That's why there's a cover page  
6 and it says Shulman's note.

7 MR. SCHECHTER: Your Honor, I respectfully  
8 call for the production of the officer's memo book in  
9 this matter. I don't -- he says he didn't bring it, no  
10 one told him to bring it.

11 I think it strains credulity that an  
12 experienced police officer doesn't know he needs his  
13 memo book when he's testifying, however I will require  
14 the memo book to continue my cross-examination after I  
15 finish today with the officer.

16 THE COURT: Well, is the -- is what you've  
17 shown me, People, the copy of his memo book?

18 MS. JOHNSON: That's what was taken out of  
19 his file, Judge, but I believe he said that he doesn't  
20 always keep a memo book for all cases so, I don't think  
21 we've crossed the bridge whether or not he actually  
22 made notations in a memo book on this case.

23 THE WITNESS: There would have been no  
24 notations in a memo book on the date in question  
25 involving the case other than my possible work

Shulman - People - cross

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1 schedule.

2 MR. SCHECHTER: See, your Honor, the memo  
3 book also has a chronology of what he did on his tour  
4 and I want to see that.

5 THE COURT: Well, why don't you ask him that.

6 MR. SCHECHTER: Because, your Honor, I don't  
7 have any means of impeaching him in the event he does  
8 not - with all due respect, officer - testify  
9 truthfully during the times everything happened in this  
10 case and I certainly would be entitled, before I ask  
11 him those questions, to have that material before me so  
12 I could use it for impeachment material.

13 I would ask him other questions, however I  
14 would still reserve my right to cross-examine him about  
15 his memo book and I request he be directed to bring it  
16 tomorrow.

17 THE COURT: What is it you expect to find it  
18 in the memo book?

19 He said there was no entries related to this  
20 investigation on that particular date.

21 Am I correct, detective?

22 THE WITNESS: Yes.

23 MR. SCHECHTER: With all due respect to the  
24 detective I am not constrained to accept anything he  
25 says with respect to what there is or there isn't.

Shulman - People - cross

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1 Under People v. Rosario I am entitled to have  
2 that information. If that information is of no  
3 moment --

4 THE COURT: You want me to inspect his memo  
5 book on that particular day to see whether or not his  
6 entries that pertain to what he's testified to --

7 MR. SCHECHTER: Even if the entries do not  
8 pertain specifically to this case, the chronology based  
9 upon his testimony here is important in this case and  
10 I'm entitled to question him about the chronology of  
11 events preceding this incident up to and including this  
12 incident.

13 THE COURT: Let me ask you this, detective.  
14 Did you have a memo book -- do you have --  
15 did you have a memo book with you on that day -- on  
16 this date, the 24th or the 23rd of June?

17 THE WITNESS: Again, your Honor, the only  
18 thing I would have put in, if I had filled it out that  
19 day, would have been my tour of duty, present for duty  
20 and end of tour.

21 Everything else is documented on my  
22 complaint follow-ups indicating times that I'm doing  
23 different things.

24 Unlike a patrol officer, I'm not required  
25 every time I get a radio run to make a memo book entry.

WS

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1 THE COURT: I understand that.

2 Now, do you still have that memo book  
3 available?

4 THE WITNESS: I would have to check to  
5 determine.

6 THE COURT: All right, I'm going to ask that  
7 you bring it with you tomorrow.

8 MR. SCHECHTER: Thank you, Judge.

9 Q. Now, detective, at what time did you first begin  
10 speaking to the complainant?

11 MS. JOHNSON: Objection.

12 THE COURT: Yeah, sustained.

13 MR. SCHECHTER: Your Honor, may I have -- I'm  
14 not asking what he asked her and what she asked him.

15 I'm asking a chronology of time when he first  
16 spoke to her.

17 THE COURT: And what bearing would that have  
18 on the issues that we have to address here?

19 MR. SCHECHTER: If the Court wants me to have  
20 an offer of proof I would be delighted to give it,  
21 absent the officer being on the witness stand.

22 THE COURT: All right, officer, you want to  
23 step out -- detective, I should say?

24 (Witness steps down.)

25 MR. SCHECHTER: I have reason to believe that

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1 the events that the officer is testifying to occurred  
2 hours before he said they occurred.

3 As such, the memo book entries are crucial,  
4 when he started speaking to the complainant is crucial,  
5 because my client, when he testifies, will interlock  
6 with that and I'm entitled to go into that simply -- I  
7 know what happened. She went to the precinct. She  
8 went to the precinct with two other people and she made  
9 a statement to him as did possibly the two other  
10 people.

11 I am entitled to know, your Honor, and I  
12 apologize for pointing with a pen, I am entitled to  
13 know when that happened. I am entitled to develop a  
14 chronology of events and not be so restricted doing so,  
15 so I can find out exactly what the time picture is  
16 here. This is very important.

17 THE COURT: And there's nothing in the  
18 Rosario material that reflects when he spoke to her?

19 MR. SCHECHTER: That involves his talking to  
20 the complainant. They don't give me that stuff.

21 MS. JOHNSON: Your Honor, what does his -- I  
22 still don't see what his offer of proof -- any  
23 conversations Detective Shulman had with the  
24 complainant prior to any contact with the defendant is  
25 irrelevant for purposes of Huntley or for purposes of

WS

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1 Mapp. It would be before any contact with the  
2 defendant.

3 MR. SCHECHTER: That is --

4 THE COURT: All right, let me ask you this,  
5 Mr. Schechter.

6 Other than the time when he initially spoke  
7 or met with the complainant, what other questions, just  
8 so we can anticipate this while he's outside, do you  
9 expect to ask him with regard to chronology?

10 MR. SCHECHTER: I'm going to ask him how many  
11 times he spoke to him.

12 THE COURT: Him?

13 MR. SCHECHTER: To her, thank you, and how  
14 many times he spoke to my client and thereafter spoke  
15 to the complaint and thereafter spoke to my client. I  
16 want to get this chronology, Judge.

17 THE COURT: All right, let's bring him back  
18 in. I'll allow you to ask those questions.

19 MR. SCHECHTER: Thank you.

20 (Witness resumes the stand.)

21 THE COURT: Okay.

22 Q. Officer, when for the first time did you speak to  
23 the complaining witness that evening?

24 A. I believe it's probably about 3:20 in the morning,  
25 to my recollection, on the morning of the 24th.

Shulman - People - cross

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1 Q. And when you spoke to her who was present?

2 A. Just myself and the victim.

3 Q. And after speaking to her you took notes of what  
4 she was saying, yes or no?

5 A. Yes.

6 Q. And there came a time when you spoke to my client  
7 after you spoke to her, sometime thereafter, is that  
8 correct?

9 A. Yes.

10 Q. Do you recall when you first spoke to my client?

11 A. Again, I believe it was about 5:10 in the morning.

12 Q. So that would be about two hours after you spoke  
13 to the complaining witness?

14 A. Well, almost two hours from the time I initially  
15 started speaking to the complainant.

16 Q. How -- for what -- how long of a period of time  
17 were you speaking to her, that first time?

18 A. I spoke to her pretty substantially that first  
19 time before I interrupted to speak to your client.

20 Q. So it would be fair to say you spent two hours  
21 speaking to her the first time you spoke to her?

22 A. I may have taken a couple of little breaks in  
23 between, but a considerable amount of time during that two  
24 hours, yes.

25 Q. After speaking to her -- withdrawn.



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1           After speaking to my client the first time did you  
2 go back and speak to her again?

3           A.   Yes, I spoke to her several times during the  
4 course of the day.

5           Q.   So it would be fair to say that you were speaking  
6 to the complainant from approximately 3:10 in the morning  
7 until about 8:30 in the morning?

8           A.   I don't understand your question.

9           Q.   Were you speaking to the complainant from 3:30 in  
10 the morning, off and on, until approximately 8:30 in the  
11 morning?

12          A.   Over the course of the day I spoke to her several  
13 different times.

14          Q.   When is the last time you spoke to her, if you can  
15 recall?

16          A.   Again, I spoke to her on and off at various points  
17 during the -- all day, well into the evening.

18          Q.   Are you saying we're in the evening?

19                   Are we not at --

20          A.   Into the next afternoon.

21          Q.   Was she always in the precinct when you spoke to  
22 her?

23          A.   When I spoke to her, but she had left the precinct  
24 at some point in time during the day.

25          Q.   And did she come back to the precinct to speak to

Shulman - People - cross

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1 you again?

2 A. Yes.

3 Q. Now, each time you spoke to Mr. Gopaul did you go  
4 back and speak to the complainant?

5 A. Not each time, no.

6 Q. There came a time when you first spoke to  
7 Mr. Gopaul, you said, at approximately 5:10, is that  
8 correct?

9 A. That's correct.

10 MR. SCHECHTER: Now, before we get to that, I  
11 would like these photographs marked Defendant's C, D, E  
12 and F, your Honor.

13 THE COURT: C,D,E and F.

14 (Defendant's Exhibits C,D,E and F marked for  
15 identification.)

16 Q. Now, officer, would you please look at Defendant's  
17 Exhibits C, D, E and F?

18 (Shown to witness.)

19 Q. Please keep them in the order.

20 A. Okay.

21 Q. Now, I direct your attention first to Exhibit C.

22 Does that photograph fairly and accurately  
23 represent the outside of the 105 Precinct?

24 A. Part of it.

25 Q. Part of it, the front entrance, right?

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1 A. Yes.

2 MR. SCHECHTER: Okay, I ask that be marked in  
3 evidence as Defendant's C.

4 THE COURT: All right, to kind of move things  
5 along, I take it, Mr. Schechter, you're going to be  
6 moving all of these in.

7 MR. SCHECHTER: All of them, yes.

8 THE COURT: Are you going to have any  
9 objection to them, Ms. Johnson?

10 MS. JOHNSON: As long as they're fair and  
11 accurate as to how it looked on June 24th, 2008.

12 Let me see it again because this is the first  
13 time I'm seeing them. If that's the case, I have no  
14 objection for purposes of the hearing.

15 (Shown to counsel.)

16 THE COURT: And, detective, those  
17 photographs, whatever they depict there, fairly and  
18 accurately represent what those areas or places looked  
19 like on June 24th, 2008?

20 THE WITNESS: I would believe so.

21 I mean, the only thing is, E and F, you know,  
22 don't show the full capacity of the room, I mean, just  
23 because of the nature of the picture being taken from  
24 outside of the doorway.

25 MR. SCHECHTER: I'll get to that.

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1 THE COURT: Other than that- -

2 THE WITNESS: Yeah, other than that I would  
3 imagine it's fairly close.

4 THE COURT: You're offering them?

5 MR. SCHECHTER: Yes, Judge, I am.

6 THE COURT: Would you mark them, please?

7 (Defendant's Exhibits C,D,E and F received in  
8 evidence.)

9 MR. SCHECHTER: May I have them, please?

10 (Shown to counsel.)

11 Q. Officer, let me direct your attention to  
12 Defendant's Exhibit D in evidence.

13 (Shown to witness.)

14 Q. Is that the outside door to what is commonly  
15 called at the 105 Precinct the box?

16 A. Well, I mean it's a door to an interview room.

17 Q. Is it known in the 105 Precinct as the box?

18 A. Not this room per se. Interview rooms in general  
19 are referred to that.

20 Q. All interview rooms are known as the box?

21 A. To my knowledge.

22 Q. So -- now, looking at that picture could you  
23 please read what's on the door there?

24 A. 221 for the room number. There's a sticker that  
25 says proper tactics saves lives.

Shulman - People - cross

201

1 Q. On the door?

2 A. That's on the door.

3 And at the time of this picture there's a sign  
4 that says interview room, complainants only.

5 Q. Was that sign on that room when you spoke to  
6 Mr. Gopaul in June?

7 A. I don't know. Could have been, I don't know..

8 Q. What is the purpose of having a room saying  
9 complainants only?

10 A. Don't know. I didn't put the sign up.

11 Q. But you brought Mr. Gopaul into that room, would  
12 that be fair to say?

13 A. No, I didn't.

14 Q. Who brought him up into that room?

15 A. One of the patrol officer officers.

16 Q. What's his name?

17 A. I don't know which officer brought him up.

18 Q. A uniform officer or a detective?

19 A. Would have been a uniform officer.

20 Q. And at whose direction would he have brought  
21 Mr. Gopaul up?

22 A. I had spoken to Sergeant O'Hagan and asked  
23 Mr. Gopaul be brought upstairs and whoever he directed to  
24 bring him upstairs would have brought him upstairs.

25 Q. So at the time Mr. Gopaul was placed in that room

Shulman - People - cross

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1 you were not there, is that correct?

2 A. No, I was in the other interview room with the  
3 victim.

4 Q. That's correct.

5 So, for the purposes of the record, at the time  
6 that Mr. Gopaul was brought up to that room you were not in  
7 that room, is that correct?

8 A. I think I just answered that.

9 Q. No, you really didn't, officer.

10 The question is, at the time Mr. Gopaul was  
11 brought into that room were you in that room, yes or no?

12 A. No.

13 Q. Now, does Police Department procedure mandate that  
14 a prisoner who is left in a room be handcuffed to a rail or  
15 some fixed object?

16 A. Depends on the circumstances.

17 Q. Well, isn't that done so that the person who is in  
18 that room to be interrogated will not do harm either to  
19 himself or the interrogating officer?

20 A. Pardon me?

21 Q. Isn't that rule in effect so that the person being  
22 interrogated does not do physical harm either to himself or  
23 the officer who is interrogating him?

24 A. That could be one interpretation of that rule,  
25 yes.

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203

1 Q. Yet you said Mr. Gopaul was not handcuffed, is  
2 that correct?

3 A. Correct.

4 Q. Where were you sitting in relation to the back  
5 wall when you were interviewing Mr. Gopaul?

6 You may look at the picture, please, to aid you if  
7 you need it.

8 A. I have the picture with the closed door.

9 Q. Okay, I'm sorry, I'm wrong.

10 MR. SCHECHTER: Let me have this marked as  
11 Defendant's G.

12 THE COURT: It's already marked, in evidence.

13 MR. SCHECHTER: I'm sorry, Defendant's F.  
14 I'm sorry, let me show the officer Defendant's F.

15 (Shown to witness.)

16 A. Okay, could you repeat your question, please?

17 Q. Yes.

18 My question is where were you sitting in relation  
19 to Mr. Gopaul?

20 Let me make it easier for you. Where were you  
21 sitting -- withdraw the question.

22 Where were you sitting and where was Mr. Gopaul  
23 sitting at the time you interviewed him?

24 A. I don't know if these are the exact chairs that  
25 were in the room on that day, but relative to this picture,

WS

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1 the red and black chair would have been the position that  
2 Mr. Gopaul was seated in and then the black and gray chair  
3 on the opposite side of the table would have been where I  
4 was sitting.

5 Q. So that your back would be towards the door and  
6 Mr. Gopaul would be facing the door, would that be fair to  
7 say?

8 A. That would be accurate, yes.

9 (Shown to Court.)

10 Q. Were you the only officer in the room?

11 A. Yes.

12 Q. Now, there is a window into that room, with a  
13 cover on the window, is that correct?

14 A. Sometimes it's covered, sometimes it's not.

15 Q. Well, was it covered at the time that you spoke to  
16 Mr. Gopaul?

17 A. I don't recall.

18 Q. And when you came in to see Mr. Gopaul you say you  
19 locked your weapon in your office?

20 A. Yes.

21 Q. Where is your office?

22 A. The area that my weapon is secured is out -- I  
23 can't really describe it from, I don't think, from this  
24 picture, but there's another doorway right here and then  
25 there's a half wall that comes all the way across separating



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1 this whole section of the office from a whole another part  
2 of our office and on the opposite end of that larger office  
3 is where I have my desk.

4 It's probably, you know, I don't want to swear to  
5 it, a measurement that I haven't measured, but probably a  
6 good 12, 15, feet outside of that door entranceway locked up  
7 in my desk.

8 Q. Did you place the weapon inside the holster inside  
9 your desk or was the weapon placed inside the desk and you  
10 still held the holster?

11 A. I don't recall.

12 I probably, just not to take my whole belt off,  
13 probably would have just taken the weapon out and put it in  
14 the desk.

15 Q. Now, when you first came into the room how was  
16 Mr. Gopaul dressed?

17 A. He was wearing some sort of uniform. I believe it  
18 had a Ecolab patch on the arms.

19 Q. What color was the shirt?

20 A. I don't recall specifically.

21 Q. And was there a tie with that shirt?

22 A. I don't recall.

23 Q. And do you recall the color of his pants?

24 A. I don't recall.

25 Q. Do you recall whether the shirt went into the

ws

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1 pants or not?

2 A. Mr. Gopaul was seated, so I don't remember  
3 noticing if his shirt was tucked in or not.

4 Q. When you saw Mr. Gopaul had you asked him whether  
5 he had eaten?

6 A. I don't believe I had that conversation with him.

7 Q. Did you ask him whether he had slept within the  
8 past 24 hours?

9 A. I hadn't had that conversation with him.

10 Q. As part of your training are you not told in the  
11 academy that the first thing you do when you when you're  
12 questioning a suspect is to get rough with him and then,  
13 after you're rough with him, try to make him your friend?

14 Is that part of your training at the Police  
15 Academy?

16 MS. JOHNSON: Objection.

17 THE COURT: I'll allow it.

18 You can answer.

19 A. No, it's not.

20 Q. The first time that you spoke to Mr. Gopaul  
21 Mr. Gopaul freely told you that he had this incident with  
22 his daughter at a park, I think you indicated, is that  
23 correct?

24 A. Pardon me?

25 Q. The first time you interviewed Mr. Gopaul he

WS

Shulman - People - cross

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1 explained to you that he had an incident involving his  
2 daughter Sana at an amusement park, would that be correct?

3 A. He indicates they had an argument and that he  
4 slapped her and then I believe in his written statement he  
5 spells out that it was revolving around an incident that had  
6 occurred at some sort of fair or festive park event.

7 Q. And he gave you that statement, is that correct,  
8 written?

9 A. Yes.

10 Q. And that statement is already in evidence. We've  
11 seen it introduced in evidence in this courtroom, correct?

12 A. Yes.

13 Q. Now, after you received that statement where did  
14 you go?

15 A. At Mr. Gopaul's request I took him to the restroom  
16 and allowed him to use the facilities. I then brought him  
17 back to the interview room and then he stayed in the  
18 interview room for a short while while I did other duties.

19 Q. When you took him to -- you personally took him to  
20 the restroom?

21 A. Yes.

22 Q. Where was the officer who brought him to the  
23 interview room?

24 A. I don't know.

25 Q. By Police Department regulation was he required to

Shulman - People - cross

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1 be handcuffed when he went to the -- was brought to the  
2 interview room within the precinct?

3 A. When he was brought to where?

4 Q. When he was placed from -- withdrawn.

5 Where was Mr. Gopaul prior to being brought into  
6 the interview room?

7 A. Somewhere downstairs.

8 Q. Are there holding pens downstairs?

9 A. There are.

10 Q. Where are they located?

11 A. Behind the desk.

12 Q. Behind the sergeant's desk?

13 A. Yes.

14 Q. And were there any prisoners in there besides  
15 Mr. Gopaul?

16 A. I don't know that Mr. Gopaul was in there or not  
17 prior to coming up to my office.

18 Q. You don't know where he was, then, would that be  
19 fair to say?

20 A. No.

21 THE COURT: Is that no?

22 THE WITNESS: No, once I was informed that he  
23 was in custody I directed that he be brought up to my  
24 office and within a short time thereafter he was  
25 brought up into my office.

WS

Shulman - People - cross

209

1 Q. When you made this direction was this by  
2 telephone?

3 A. Yes.

4 Q. And you were sitting by your desk?

5 A. I was at one of the desks in my office.

6 Q. And when Mr. Gopaul was brought up was he brought  
7 up in handcuffs or was he brought up without handcuffs?

8 A. Again, I didn't see him brought up, but when I  
9 first saw him he was not handcuffed, but he was in a secure  
10 interview room.

11 Q. Is there a key to that room?

12 A. No.

13 Q. So that room could be opened and closed freely, is  
14 that what you're saying?

15 A. Well, no, if you're securing somebody in there, as  
16 you can see in the picture, there is a clasp on the door so  
17 you can secure the door.

18 Q. From the outside?

19 A. From the outside.

20 Q. Did you have your handcuffs with you when you  
21 interviewed Mr. Gopaul?

22 A. Yes.

23 Q. Did you have to take the handcuffs off of  
24 Mr. Gopaul?

25 A. No.

Shulman - People - cross

210

1 Q. All right, so you order Mr. Gopaul to be brought  
2 up from downstairs.

3 How long after you made that telephone call was  
4 Mr. Gopaul brought to the room?

5 A. Not too long. I mean, I don't know exact time  
6 frame because I went back in to speak to the victim.

7 Q. Is it your testimony that after you asked  
8 Mr. Gopaul to be brought back to the room you went back to  
9 speak to the victim again?

10 A. Yes.

11 Q. What was your purpose in speaking to the victim  
12 again?

13 A. I was still speaking to the victim. I hadn't  
14 concluded speaking to the victim.

15 Q. Did the victim know Mr. Gopaul was in that room?

16 A. Not at that time, no.

17 MR. SCHECHTER: May I show the witness  
18 Exhibit E?

19 MS. JOHNSON: Can I see which one it is?

20 (Shown to counsel.)

21 (Shown to witness.)

22 Q. Now, officer, Exhibit E fairly represents the  
23 other part of the room that were not in the photographs, the  
24 other half of the room width-wise, would that be fair to  
25 say?

WS

Shulman - People - cross

211

1 A. The back portion.

2 The front corner is cut off, again, by the angle  
3 of the picture, but it shows the back right corner.

4 Q. How tall are you, officer?

5 A. About five ten.

6 Q. How much do you weigh?

7 A. 250, 260.

8 Q. Now, as a police officer you're trained to  
9 recognize the heights and weights of various witnesses or  
10 defendants, isn't that correct?

11 A. Well, I don't know that you can train that.

12 Q. Did you make a determination how tall and how much  
13 Mr. Gopaul weighs?

14 MS. JOHNSON: Objection.

15 THE COURT: Did he make a determination as to  
16 how much Mr. Gopaul weighed?

17 Is that the question?

18 MR. SCHECHTER: Yes.

19 THE COURT: Did you make that determination?

20 THE WITNESS: I don't think I had to think  
21 about that at the moment.

22 Q. Would it be fair to say that you -- on June 8th  
23 you outweighed Mr. Gopaul by, easily, 70 pounds?

24 A. On what date?

25 Q. On June -- I'm sorry, on June 24th, 2008?

Shulman - People - cross

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1           A.    I don't know how much I outweighed him by, but I  
2           would imagine I outweighed him.

3           Q.    Isn't it a fact when you first got Mr. Gopaul in  
4           the room you grabbed him by his collar and threw him against  
5           the wall, holding on to the collar, and then grabbing,  
6           maintaining holding on to the collar, you dragged him back  
7           towards you?

8                    Isn't that a fact when you first saw him in the  
9           room --

10                   MS. JOHNSON:  Objection.

11                   THE COURT:  I'll allow it.

12           A.    Absolutely not.

13                   MR. SCHECHTER:  Your Honor, can I please play  
14           the tape, first part of the tape, videotape, for the  
15           officer?

16                   THE COURT:  You can play it tomorrow because  
17           we're going to break at this point.

18                   MR. SCHECHTER:  Okay, I just wanted the  
19           officer to look at the tape.

20                   All right, we're breaking now?

21                   THE COURT:  Because I have a prisoner I have  
22           to deal with, so I want to give my officers enough time  
23           to get her downstairs.

24                   MR. SCHECHTER:  Would the Court kindly direct  
25           the officer not to discuss his testimony with

ws



Proceedings

213

1 Officer Alfaro?

2 I did notice there was conversation, but I  
3 don't know what it was about.

4 THE COURT: Detective, you can speak to  
5 Officer Alfaro, just not about your testimony.

6 We'll see you back here tomorrow morning.

7 MS. JOHNSON: At the Court's direction, I  
8 sent subpoenas for Officer Alfaro and Detective Shulman  
9 tomorrow.

10 Officer Alfaro has already been subpoenaed  
11 for two other matters, one being a Queens County  
12 Criminal Court case and another being a traffic court  
13 case.

14 I advised her this is an ongoing hearing and  
15 my position was that this matter took precedence.

16 She indicated that traffic court is from 8:30  
17 until 10 o'clock in the morning anyway, and I had  
18 indicated to her that she would have to come here after  
19 that, but I believe she has personal appointments  
20 scheduled for tomorrow that she already did -- that she  
21 had already had scheduled.

22 THE COURT: All right, look it, she's under  
23 subpoena. I expect her to be here.

24 MS. JOHNSON: And I would inform the  
25 precinct, as I did yesterday, this is an on going

Proceedings

214

1 hearing, this takes precedence to other matters and I  
2 thank the Court for the Court's phone call to assist  
3 with witnesses.

4 THE COURT: All right, thank you.

5 Detective, we'll see you tomorrow.

6 (Witness steps down.)

7 (Proceedings adjourned to Tuesday, May 5th,  
8 2009 at 9:30 a.m.)  
9  
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU : CRIMINAL TERM PART 80

-----X  
THE PEOPLE OF THE STATE OF NEW YORK, : Indictment  
: No. 2415N/08  
-against- :  
: Sex Abuse 1  
HAROLD GOPAUL, :  
: Defendant. : Huntley/Mapp  
-----X : Hearings

May 5, 2009

252 Old Country Road  
Mineola, New York

B E F O R E:

HONORABLE JAMES P. McCORMACK,  
Acting Supreme Court Justice

A P P E A R A N C E S:

(As Previously Noted.)

\* \* \* \* \*

THE CLERK: This is a continued hearing of  
Harold Gopaul, Indictment 2415N of 2008.

Are the People ready?

MS. JOHNSON: Yes.

Can I place a couple of things on the record?

THE COURT: Yes.

MS. JOHNSON: I handed counsel a copy of  
Detective Shulman's memo book from the date of

## Proceedings

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1 incident. It's two pages. It's the cover page of his  
2 actual book and the entries.

3 I've also handed counsel a Xerox copy of  
4 photographs as part of the People's continuing  
5 discovery. I indicated to him that we were not even  
6 sure if we were going to be using them on our direct  
7 case.

8 I've also handed a copy of a fax that I  
9 received regarding the logbook from the command dated  
10 Tuesday, June 24th, 2008. That's what was faxed over  
11 to my office yesterday.

12 I don't know if your Honor wants to deal with  
13 the other issues now with the uniformed officer or just  
14 get this going and we can do it after the detective is  
15 done.

16 THE COURT: Mr. Schechter, you received those  
17 items, I take it?

18 MR. SCHECHTER: Your Honor, I received what  
19 appears to be the portion of Detective Shulman's memo  
20 pad for June 24, 2008 and I received a portion of the  
21 logbook for June 24th, 2008.

22 Unfortunately, it's missing a very crucial  
23 time period of midnight to 5:57 p.m. -- a.m. and  
24 therefore it's incomplete.

25 As I explained earlier, I requested the

## Proceedings

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1 entire logbook for June 24th, including the early  
2 morning hours, which is where all the activities we're  
3 dealing with here took place.

4 THE COURT: All right, People, I think that's  
5 a pretty fair assessment of the logbook. It does  
6 appear that there's a page that's missing. The page I  
7 have begins at 0558 hours, which is approximately  
8 6 a.m., and ends at 8:45, so --

9 MS. JOHNSON: Yes, Judge.

10 THE COURT: I'm going to ask you, at some  
11 point during the break, if you want to have  
12 Detective Schulman contact the 105 and fax that page to  
13 your office?

14 MS. JOHNSON: Absolutely, your Honor.

15 And yesterday when I had asked them to fax it  
16 over I asked for June 24th and this is what they sent,  
17 but I will absolutely ask to have that faxed over.

18 THE COURT: It seems at this point there is a  
19 great deal of miscommunication between your office,  
20 yourself, and the -- these officers in this case.

21 I've been sitting here since 9:30. Is --  
22 this detective doesn't understand that he's supposed to  
23 be here at 9:30 or is he being told to come at some  
24 other time?

25 MS. JOHNSON: Your Honor, the teletypes

ws

## Proceedings

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1 which, in fact, I provided a copy to the Court, are for  
2 continuation for the hearings at 9:30.

3 The detective, when he finished his tour last  
4 night, responded back to the precinct to pick up his  
5 case jacket. It's my understanding, I guess, that 9:30  
6 was for him to be at the command for him to pick up his  
7 case jacket and then to come to court.

8 I did advise him that hearings begin as soon  
9 as he gets here at 9:30. The Court is ready to proceed  
10 at 9:30. I believe your Honor knows I was obviously  
11 here at 9:30 -- in my office at 9:30.

12 I am at the mercy of the Court to at least  
13 have the Court advise --

14 THE COURT: I plan to, but before I open my  
15 mouth, if you will, I want to be sure he's not going to  
16 tell me he's being told to come here at some other  
17 time.

18 MS. JOHNSON: Your Honor, he advised me that  
19 he was going to get here as soon as he could. I told  
20 him, "We continue as soon as you get here at 9:30. The  
21 subpoena is for 9:30."

22 He says he has to go from his home to Queens  
23 to pick up the case jacket. I even called him on his  
24 cell phone when he was running late.

25 THE COURT: All right, I'll speak to him when

Proceedings

219

1 he comes in.

2 What's the issue with this other officer?

3 Are we going to have her today?

4 MS. JOHNSON: Your Honor, what the Court has  
5 before the Court is a copy of the teletype that was  
6 sent on May 1st for Officer Alfaro to appear here for  
7 continuation of hearing, today being May 5th.

8 I spoke to police liaison. They faxed me  
9 that information. A copy of the teletype that your  
10 Honor has confirms that the NYPD received  
11 communication.

12 However, as I indicated yesterday,  
13 Officer Alfaro had already been subpoenaed for traffic  
14 court and for another criminal case in Queens County.

15 I advised her that it was my belief that a  
16 pending hearing took precedence to both of those  
17 matters.

18 When I called the 105 Command they advised me  
19 that traffic court takes precedence to all other  
20 matters because if the officer does not show, the  
21 ticket --

22 THE COURT: What traffic court are we  
23 referring to?

24 I mean, not that I -- in my mind, I can't  
25 imagine traffic court taking any precedence over a

Proceedings

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1 County Court matter.

2 MS. JOHNSON: I agree with your Honor and  
3 that was the PD's policy. They said traffic court  
4 takes precedence over other matters. I asked them if  
5 that was the policy. They said yes.

6 Either way, your Honor, the officer informed  
7 me that she was never notified by the command to appear  
8 here for today, despite that subpoena that clearly  
9 indicates that she was notified five days ago and that  
10 the command received the notification.

11 THE COURT: Is there somebody -- when you say  
12 command, are you talking about the 105th Precinct?

13 MS. JOHNSON: That is correct, Judge. Their  
14 actual notification goes through a records bureau and  
15 goes through another channel.

16 We were told that they need 24 hours notice.  
17 Here they've had four days notice that we were going to  
18 need her.

19 Even if she knew that we were going to need  
20 her for today, which I had advised her of, she is  
21 ordered to go to the traffic court and go to the other  
22 matters which she is officially notified through the  
23 official channels. So even though she knew about  
24 this --

25 THE COURT: Well, she was here yesterday.



Proceedings

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1 MS. JOHNSON: Yes.

2 THE COURT: Obviously, she wouldn't have come  
3 here if she didn't have a subpoena to come here.

4 MS. JOHNSON: Absolutely. And the precinct's  
5 position and the PD's position is that she was already  
6 notified for traffic court and for Criminal Court and  
7 although we sent these, she was not officially notified  
8 to come today.

9 She was working last night. She was working  
10 at the precinct because she's a night officer and we  
11 complied with their 24-hour notification four days ago.

12 I don't know why their records bureau or  
13 whoever is in charge of it there never actually said to  
14 her, "Here is your subpoena from four days ago. You  
15 must come either after traffic court or after Criminal  
16 Court to Nassau County."

17 THE COURT: She's in traffic court where,  
18 Nassau County, Queens?

19 MS. JOHNSON: I believe it's the city, Judge.  
20 I don't know.

21 The other issue is that because she is a  
22 night officer and her official notification is for --  
23 that she was notified from the command for traffic  
24 court and Criminal Court, she is not permitted to come  
25 here without the official notification, even though she

## Proceedings

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1 actually knew about it, because the command didn't  
2 officially tell her she must appear in court.

3 MR. SCHECHTER: Judge, may I be heard?

4 THE COURT: Yeah.

5 MR. SCHECHTER: The system of traffic court  
6 in New York City is that the traffic court is separate  
7 from the Criminal Court unless they're dealing with  
8 matters involving driving with a suspended license or  
9 driving while intoxicated.

10 Any unclassified VTL misdemeanor is done in  
11 Criminal Court. All of the regular traffic  
12 infractions, speeding, going through a red light, that  
13 is done in traffic court which is completely the lowest  
14 end of the criminal spectrum.

15 Additionally, Criminal Court never takes  
16 precedence over County or Supreme Court, Judge.

17 I'm beginning to smell a rat here with the  
18 superstructure of the 105 Precinct. They only supplied  
19 part of the documentation that was supposed to be  
20 supplied to us, Judge, they've been stone walling us,  
21 there are inconsistencies that will manifest itself  
22 with respect to this officer's tours and I think  
23 there's something in the nature of, I don't want to say  
24 cover-up, but certainly I'm beginning to smell a rat  
25 with respect to the 105 Precinct. They are not

Proceedings

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1 cooperating with this Court and I don't understand why.

2 Which is why normally I respectfully ask the  
3 Courts to direct witnesses to be here the next day so  
4 the witness has no squeaking room because if he  
5 violates that it's a contempt of court.

6 MS. JOHNSON: Your Honor, I even went so far  
7 as we already sent a subpoena for Officer Alfaro for  
8 tomorrow. I didn't know what the Court's or  
9 Mr. Schechter's schedule was, but to avoid any problem,  
10 that was done over an hour and a half ago to make  
11 sure --

12 THE COURT: All right, well, let me --

13 MS. JOHNSON: While your Honor steps off the  
14 bench can I have Detective Schulman call the precinct  
15 to have that other page faxed?

16 THE COURT: Yes.

17 (Pause in the proceedings.)

18 (The witness, Leonard Schulman, having  
19 previously been sworn, resumed the witness stand.)

20 THE COURT: Detective, I need you here at  
21 9:30.

22 I understand you work at nights?

23 THE WITNESS: Yes, your Honor.

24 THE COURT: All right, I can't lose an hour  
25 and a half or an hour. Like I said to you a couple of

Proceedings

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1 days ago, we're under a tight schedule and I need you  
2 here -- I don't know where your other officer is.

3 If there's an emergency, I understand. If  
4 something comes up, you have the DA's cell phone, call  
5 her. I'm sitting here for an hour and a half doing  
6 nothing.

7 THE WITNESS: I was here at 9:30 yesterday  
8 morning, your Honor, and this morning I believe I was  
9 able to park the car about 10:15. I apologize. I was  
10 a little bit late. There was a little bit of traffic  
11 with the rain and all.

12 THE COURT: Ms. Johnson, when was this  
13 subpoena for Officer Alfaro sent because my law  
14 secretary is being told --

15 MS. JOHNSON: This is the fax. This 9:12 --

16 LAW SECRETARY: Back to you?

17 MS. JOHNSON: Back to me from the liaison for  
18 the Court.

19 Right here, your Honor, it says May 1st, 2009  
20 up here. That top fax is them faxing it over to me  
21 this morning.

22 LAW SECRETARY: It's a subpoena or a  
23 teletype?

24 MS. JOHNSON: It's a teletype.

25 LAW SECRETARY: They're saying they don't

Shulman - People - cross

225

1 have a subpoena and no record of her needing to be here  
2 today.

3 MS. JOHNSON: That's the receipt of it on  
4 top.

5 THE COURT: Ask them what they need and we'll  
6 make sure they get it.

7 THE CLERK: Detective, you're reminded that  
8 you're still under oath.

9 THE WITNESS: Yes.

10 MR. SCHECHTER: Shall I proceed, your Honor?

11 THE COURT: Yes.

12 MR. SCHECHTER: If the Court pleases, I'm  
13 just trying to find my last question and answer.

14 CROSS-EXAMINATION CONT'D

15 BY MR. SCHECHTER:

16 Q. Now, Detective Schulman, you recall testifying  
17 yesterday that on June 24th you were working a 4:30-to-1  
18 tour?

19 Do you recall testifying to that?

20 A. From the night of the 23rd into the morning of the  
21 24th.

22 Q. Right, 23rd into 0100 a.m.

23 On the 24th you say you were working an 8 to 4:30  
24 tour?

25 A. Due to the fact that I was still working on the

Shulman - People - cross

226

1       Gopaul case and the Awan case at 8 o'clock in the morning, I  
2       went back on a day tour.

3           Q.     Were you in court at 8 a.m. in the morning?

4           A.     No.

5           Q.     Where were you?

6           A.     I was in my office.

7           Q.     Was anybody with you?

8           A.     Probably.

9           Q.     Who was with you?

10          A.     I don't know specifically who was working.

11          Q.     Was it an officer or was it any of the witnesses?

12          A.     Mr. Gopaul was in my office.

13          Q.     At 8 a.m.?

14          A.     Yes.

15          Q.     And he was in your office or in the interrogation  
16       room?

17          A.     He's in the interview room which is in my office.

18          Q.     Oh, I see.

19                 So it would be fair to say you worked straight  
20       through from 4:30 through 4:30 the next day?

21          A.     I worked through the next afternoon into the  
22       evening. I would have to look at the memo book to see  
23       exactly what time I finished that day.

24          Q.     Okay, please do.

25          A.     I actually worked until 9:33 p.m. Tuesday evening

Shulman - People - cross

227

1 and then I went back on duty again from 9:33 p.m. to 6:06  
2 the next morning.

3 Q. Is that all overtime?

4 A. No.

5 Q. What part was overtime, officer?

6 MS. JOHNSON: Objection.

7 THE COURT: Yeah, sustained.

8 MR. SCHECHTER: Now, I would like if the  
9 officer -- would I be able to ask the officer to sit in  
10 the jury box so that he could view the videotape,  
11 Judge?

12 THE COURT: Yes.

13 Detective, if you would just have a seat  
14 where you were yesterday for a moment?

15 (Witness steps down.)

16 MR. SCHECHTER: Now, your Honor, I  
17 respectfully ask counsel to turn the videotape on right  
18 now.

19 Now, could you freeze that, please?

20 Q. Now, officer, I draw your attention to  
21 Mr. Gopaul's image in that videotape.

22 Can you see him clearly?

23 A. Pretty much.

24 Q. Would you need to go closer?

25 A. No.

Shulman - People - cross

228

1 Q. I direct your attention --

2 MR. SCHECHTER: I ask the Court to also,  
3 please.

4 Q. I direct your attention to the collar of his  
5 shirt.

6 Now, is the collar of his shirt closed or is it  
7 spaced widely?

8 A. It appears to be unbuttoned on the top.

9 Q. And would you say that the distance between the  
10 two sides of his shirt is not what normally that shirt would  
11 look like were it closed?

12 A. Again, it appears unbuttoned, so it doesn't look  
13 the same as it looks when it's buttoned.

14 Q. Was the shirt the same way when he came into the  
15 room with you -- withdrawn.

16 Was his shirt in that same condition when you  
17 first came into the room and observed him in that room?

18 A. I don't recall if his shirt was unbuttoned or not  
19 when I first came into the room.

20 Q. Well, there came a point of time when you were  
21 questioning him over a two or three-hour period, is that  
22 correct?

23 A. Yes.

24 Q. Did his shirt always appear like that during the  
25 two or three-hour period that you were questioning him?



Shulman - People - cross

229

1           A.    Again, I don't recall if his shirt was buttoned or  
2 unbuttoned.

3           Q.    Now, you'll notice that the two lower parts of the  
4 shirt --

5                   MR. SCHECHTER: I'm asking the Court to take  
6 judicial notice of this, and I'm referring to this area  
7 (indicating).

8           Q.    And I'm referring to this area here and this area  
9 here is distorted downward.

10                   Do you notice that?

11                   THE COURT: Do you want to, just for the  
12 record, indicate what it is that you're point at?

13                   MR. SCHECHTER: Yes, I'm pointing to the area  
14 on the videotape on a point on the lower right center  
15 part of the video which shows the bottom left portion  
16 of Mr. Gopaul's shirt and also the right lower portion.

17                   All of this is basically in the center of the  
18 video showing that the shirt is depressed down on the  
19 left side and down on the right side.

20           Q.    Now, was Mr. Gopaul's shirt in that condition when  
21 you first saw him?

22           A.    Again, I don't know if his shirt was buttoned or  
23 unbuttoned when I first came in to speak to him.

24           Q.    When you -- withdrawn.

25                   Have you any physical contact with Mr. Gopaul

Shulman - People - redirect

230

1       whatsoever?

2           A.    I might have shook his hand when I introduced  
3       myself, but other than that, no.

4           Q.    Isn't it a fact that you took your hand right by  
5       his collar, right where that distortion of his shirt is, you  
6       grabbed his shirt with your hand, indicating a hand with a  
7       palm down, grabbing his shirt, pulling him towards you, then  
8       pulling him away.

9                    Isn't that what you did?

10          A.    Absolutely not.

11                   MR. SCHECHTER: Your Honor, I have no more  
12       questions of the officer.

13                   THE COURT: Okay, sure.

14                   If you would, detective, just resume your  
15       seat back in the witness box?

16                   (Witness resumes the stand.)

17       REDIRECT EXAMINATION

18       BY MS. JOHNSON:

19           Q.    Detective Schulman, during the time you were with  
20       the defendant on June 24th, 2008 did he ever complain of any  
21       injuries?

22           A.    No, he did not.

23           Q.    Did he ever ask for any medical attention?

24           A.    No, he did not.

25           Q.    Did you ever observe any injuries on him?

WS

Shulman - People - redirect/recross

231

1 A. No, I did not.

2 MS. JOHNSON: Nothing further.

3 THE COURT: All right, detective, if I could  
4 just ask a couple of follow-up questions?

5 As I looked at the video of Mr. Gopaul seated  
6 in the interview room there during the videotape it  
7 appears as though -- was he wearing two shirts?

8 In other words, it looked to be a T-shirt or  
9 some underlying shirt and then a shirt over it, if you  
10 recall?

11 THE WITNESS: I don't know if he had an  
12 undershirt on or not, your Honor. I mean, I didn't  
13 have any contact with his clothing.

14 THE COURT: Any other questions,  
15 Mr. Schechter?

16 MR. SCHECHTER: I have no questions of the  
17 officer.

18 THE COURT: All right, detective, thank you  
19 very much, you're excused.

20 MR. SCHECHTER: Wait, yes, I do.

21 RECROSS-EXAMINATION

22 BY MR. SCHECHTER:

23 Q. Officer, did you have to do a physical inspection  
24 of Mr. Gopaul's arms and legs at any time?

25 A. Not that I recall specifically, no.

Shulman - People - recross

232

1 Q. Or his abdomen?

2 A. No.

3 MR. SCHECHTER: Thank you. No more  
4 questions.

5 THE COURT: You're excused, detective, thank  
6 you.

7 Could I just see the both of you?

8 (Discussion held at the bench, off the  
9 record.)

10 (The luncheon recess was taken at this time.)

11 \* \* \* \* \*

12 A F T E R N O O N S E S S I O N

13 THE COURT: Mr. Schechter, I indicated  
14 earlier that this morning there was an individual who  
15 my law secretary dealt with. I don't know from what  
16 facility one of those two subpoenas were directed to.  
17 I think they were both two different facilities?

18 MR. SCHECHTER: My investigator was informed,  
19 your Honor, that they had to deliver everything through  
20 the Manhattan facility, which they did.

21 As your Honor could tell from my subpoena,  
22 there's one specific bit of information that I really  
23 require out of that -- those materials and it's that  
24 that I'm most interested in.

25 THE COURT: All right, there was -- what took

## Proceedings

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1 place this morning is that subpoena came from one of  
2 the facilities with printed out material that was from  
3 a computer that they accessed.

4 What we were told is that there's a box of  
5 materials that I believe comes from Manhattan that  
6 we've directed them to send FedEx.

7 I take it that you're not, at least at this  
8 point, expecting any witnesses to testify with regard  
9 to the documents.

10 MR. SCHECHTER: No.

11 THE COURT: So what I asked them to do is  
12 send those materials to chambers FedEx.

13 The materials that we did receive this  
14 morning, I don't know how many pages there were, my law  
15 secretary has gone over them.

16 In essence, there's really not any statements  
17 by or attributable to her or attributable to these  
18 incidents in terms of her talking about these  
19 allegations.

20 A lot of them has to deal with her placement,  
21 if you will.

22 MR. SCHECHTER: That's what I'm most  
23 interested --

24 THE COURT: And that would be relevant in  
25 what sense?

WS

## Proceedings

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1 MR. SCHECHTER: I wish not to, with all due  
2 respect, to disclose that information, your Honor,  
3 especially in the presence of the prosecutor since this  
4 is part of the theory of my case.

5 THE COURT: Let me say this.

6 It's my intention, depending on what material  
7 I find to be appropriate for disclosure, that it's  
8 going to be disclosed to both sides.

9 MR. SCHECHTER: Your Honor, I, with all due  
10 respect, I do not understand how if I -- the whole  
11 purpose of a subpoena, as it is with the People's  
12 subpoena because they don't notify counsel when they  
13 subpoena something, and I don't get any --

14 THE COURT: As a matter of practice, if the  
15 People were to subpoena things to my chambers and I  
16 release them I would release them to the defendant as  
17 well as the People.

18 MR. SCHECHTER: They don't have to. They can  
19 routinely subpoena information and the Police  
20 Department routinely gives them the information they  
21 subpoena without us knowing a thing about it.

22 There's a reason that I have those things  
23 subpoenaed and there's a reason why the subpoenas were  
24 done ex parte, your Honor.

25 I do not want to, in any way, telegraph

ws

## Proceedings

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1 counsel my intentions and the reasons for my doing  
2 anything here. I have my own theory of the case and it  
3 entails getting certain information. The specific  
4 information is outlined in the first request part of my  
5 subpoena.

6 THE COURT: Well, as I indicated, I haven't  
7 looked at the materials myself yet.

8 As I indicated to you, there may be some  
9 materials that -- although I should preface my comments  
10 by saying nobody from these facilities, as of yet, is  
11 claiming any type of confidentiality or privilege  
12 attached to these documents.

13 In thinking about it, if no one is going to  
14 raise that, then I may just release them, again, as I  
15 said, to both sides.

16 But, again, I haven't gone through them. My  
17 law secretary just handed me one document that does  
18 appear to talk about the incident itself, so what I've  
19 asked my law secretary to do is make copies of what we  
20 received today.

21 As I indicated, there's apparently other  
22 material we're expecting to get in the next -- I would  
23 hope by tomorrow.

24 MR. SCHECHTER: Okay, Judge, but, as I said,  
25 just without specifying what it is, that first one or

## Proceedings

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1 two sentences of my subpoena pretty much outlines what  
2 I really -- what I'm interested in, at least at this  
3 juncture.

4 THE COURT: All right. Well, I'm going to  
5 obviously provide what I do receive, absent somebody  
6 claiming some type of privilege or confidentiality to  
7 it.

8 I don't know whether it's going to be in  
9 response to your subpoena. Only you could say that,  
10 obviously.

11 MR. SCHECHTER: Okay. All right --

12 MS. JOHNSON: Your Honor, the logbook had not  
13 yet been received by my office.

14 When I spoke to Detective Schulman he  
15 indicated to me that although his detective squad is  
16 housed at the 105 Precinct, it is a patrol division  
17 log. He has requested that the patrol supervisor, one  
18 of the only people that can actually access the book,  
19 immediately, upon getting it, fax it over to my office,  
20 but I have not yet received that yet.

21 I also indicated to counsel -- I mean,  
22 obviously Officer Alfaro is outside, we can proceed  
23 with the hearing, with her testimony, but I had asked  
24 for the Court's indulgence with a day to begin the  
25 trial at least a day from now, but I just want



## Proceedings

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1 your Honor to know there is conflict and issues  
2 concerning witness availability on Monday and Tuesday.

3 My suggestion to your Honor, and, of course,  
4 this is -- I'm at the whim of the Court, is if we can  
5 do pretrial tomorrow and start picking on Monday and  
6 the reason why I ask that is because I have confirmed  
7 with the officer and I've confirmed with the detective  
8 that they are not available for personal reasons on  
9 Monday and Tuesday of next week.

10 If we were to pick on Thursday and Friday I  
11 would not have witnesses available for Monday and  
12 Tuesday, that being May 12th -- May 11th and May 12th.

13 I did confirm with them they are both  
14 available on Wednesday, Thursday and Friday.

15 THE COURT: And that leaves us with one week  
16 left for -- assuming all goes well and you get your  
17 case in from Wednesday to Friday next week, that leaves  
18 us with the week of the 18th for the defendant's case  
19 to go in, which it appears as though there is going to  
20 be somewhat of a defense case, you know, jury charge,  
21 deliberations, and I've got Mr. Schechter looking to  
22 get on a plane on the 27th.

23 MS. JOHNSON: And I understand that, Judge.  
24 That's why I'm bringing it to the Court's attention,  
25 that the detective and the police officer are not

Proceedings

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1 available on Monday or Tuesday.

2 MR. SCHECHTER: The complainant is.

3 THE COURT: At this point I really loathe to  
4 entertain any applications from any of these officers  
5 regarding their availability. It seems as though  
6 they've had issues with regard to their availability  
7 since this case began.

8 You know, barring some type of medical  
9 emergency, as far as I'm concerned, depending on what  
10 we cover today, I would be inclined to order a panel  
11 for tomorrow afternoon and start picking tomorrow  
12 afternoon.

13 If that becomes not feasible, then we'll  
14 start on Thursday morning. I mean, obviously you'll  
15 have your complainant.

16 MS. JOHNSON: Yes, Judge.

17 THE COURT: She is available.

18 MS. JOHNSON: She is, your Honor.

19 THE COURT: So -- I can't at this point, with  
20 the history that's gone on so far -- and, believe me,  
21 nobody wants to accommodate an attorney more than  
22 myself, but at this point I can't run the risk of  
23 picking on Monday.

24 Quite frankly, although there's only ten  
25 peremptories for each side, I think given the nature of

Alfaro - People - direct

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1 the case it's not going to be a jury selection that's  
2 not going to be necessarily that quick, particularly  
3 when jurors hear the nature of the allegations.

4 So I think the sooner we get this going the  
5 better off we're all going to be.

6 I just want to give this back to my law  
7 secretary so we could start making copies.

8 Do you want to call Ms. -- Officer Alfaro?

9 MS. JOHNSON: People call Police Officer  
10 Celica Alfaro.

11 C E L I C A A L F A R O, a witness called on behalf of the  
12 People, having been first duly sworn by the clerk of  
13 the Court, was examined and testified under oath as  
14 follows:

15 COURT OFFICER: Take a seat.

16 For the record, state your name, spell your  
17 last name, shield number, rank and command?

18 THE WITNESS: Celica -- PO Celica Alfaro,  
19 A-l-f-a-r-o, shield number is 8865, from 105 Precinct,  
20 Queens South.

21 THE COURT: Okay, Ms. Johnson.

22 MS. JOHNSON: Thank you, your Honor.

23 DIRECT EXAMINATION

24 BY JOHNSON:

25 Q. Good afternoon, Officer Alfaro.

Alfaro - People - direct

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1                   How long have you been employed by the New York  
2 City Police Department?

3           A.    Approximately eight years.

4                   MR. SCHECHTER:   How many years?

5                   THE WITNESS:   Eight years.

6           Q.    You may just want to push the microphone over.

7                   Have you been assigned to the 105 the entire time?

8           A.    Yes.

9           Q.    What are your general duties as an officer with  
10 the 105th Precinct?

11          A.    Patrol.

12          Q.    I'm going to direct your attention to June 24th,  
13 2008.

14                   Were you working that day?

15          A.    Yes.

16          Q.    Where were you working?

17          A.    I don't recall.   A sector.

18          Q.    Were you assigned to the 105 Precinct?

19          A.    Yes.

20          Q.    What was your tour?

21          A.    12 to 8.

22          Q.    P.m. or a.m.?

23          A.    2315 by 0750.

24          Q.    That's 11:15 p.m. to 7:50 a.m.?

25          A.    Yes.

Alfaro - People - direct

241

1 Q. Would that be the 23rd going into the 24th?

2 A. Yes.

3 Q. Did there come a time when a Detective Schulman  
4 asked you to assist in a case?

5 A. Yes.

6 Q. Can you tell us what happened?

7 What was it that Detective Schulman asked of you?

8 A. To process an arrest.

9 Q. What was the name of the suspect?

10 A. Mr. Gopaul.

11 Q. What --

12 A. Howard.

13 Q. What specifically was your job and your assignment  
14 with regard to the arrest?

15 A. Be an assigned officer and assist in processing  
16 the arrest.

17 Q. What did processing entail?

18 A. Doing the online and interviewing the complainant.

19 Q. When you say online, what does that mean?

20 A. The booking sheet.

21 Q. Would that be preparing the arrest paperwork?

22 A. Yes.

23 Q. Did you have any contact with the suspect,  
24 Harold Gopaul, on June 24th, 2008?

25 A. Yes.

Alfaro - People - direct

242

1 Q. Do you see that individual in the courtroom today?

2 A. Yes.

3 Q. Can you point to that person and identify an item  
4 of clothing that that person is wearing?

5 A. He's wearing a gray suit.

6 Q. Can you point to the individual you're referring  
7 to?

8 A. Yes (indicating).

9 THE COURT: Indicating the defendant.

10 Q. Officer Alfaro, can you tell us what was your  
11 first contact with the defendant on June 24th, 2008?

12 A. When I was bringing him down to the first floor  
13 from the detective squad.

14 Q. What was the defendant doing in the detective  
15 squad when you first encountered him?

16 A. Sitting down.

17 Q. Where?

18 A. In the interview room.

19 Q. Was he handcuffed?

20 A. No.

21 Q. Was he with anybody?

22 A. No.

23 Q. What did you say to him when you first encountered  
24 the defendant in the interview room?

25 A. Saying that I was going to process his arrest and

WS

Alfaro - People - direct

243

1 I was going to take him downstairs.

2 Q. What was his response to you?

3 A. Okay.

4 Q. Was he cooperative?

5 A. Yes.

6 Q. What did you do to get him from the interview room  
7 to the processing?

8 A. I put the cuffs on him and took him downstairs and  
9 put him in a cell.

10 Q. Was there any conversation between you and the  
11 defendant on the way from the interview room to the cell?

12 A. Yes, I got his pedigree information in front of  
13 the desk.

14 Q. What type of pedigree information are you  
15 referring to?

16 A. His name, again, his address and his date of  
17 birth.

18 Q. Did the defendant provide that information to you?

19 A. Yes.

20 Q. What language was he speaking?

21 A. English.

22 Q. Were his answers responsive to your questions?

23 A. Yes.

24 Q. Was he cooperative?

25 A. Yes.

Alfaro - People - direct

244

1 Q. Did he ask you any questions?

2 A. No.

3 Q. Other than pedigree information what was the  
4 extent of your conversation with the defendant at the desk?

5 A. That was it.

6 Q. Where did you go after that?

7 A. To the cell area.

8 Q. Where is that located compared to the desk?

9 MR. SCHECHTER: Which area was that?

10 MS. JOHNSON: The cell area.

11 Q. Is that what you said?

12 MR. SCHECHTER: Cell area.

13 A. Yeah, the cell area.

14 Q. Where is the cell area in relation to the desk?

15 A. Behind the desk.

16 Q. Did you personally bring the defendant to the cell  
17 area?

18 A. Yes.

19 Q. Who else was around?

20 A. I don't recall.

21 Q. Were there other officers around?

22 A. I don't recall.

23 Q. Did any other officers have any conversation with  
24 you or the defendant in route to the cell area?

25 A. I don't recall.



Alfaro - People - direct

245

1 Q. Did you observe any officers exert any physical  
2 force upon the defendant?

3 A. No.

4 Q. Did you observe any officers or hear any officers  
5 threaten the defendant?

6 A. No.

7 Q. Where was your weapon while transporting the  
8 defendant from the interview room down to the desk?

9 A. It was in a locked control -- a locked, I guess,  
10 locker.

11 Q. When did you put your weapon in the locker?

12 A. Prior to me taking him to the cell area.

13 Q. Was that Police Department procedure?

14 A. Yes.

15 Q. How did you get the defendant from the desk to the  
16 cell?

17 A. Walked him.

18 Q. Did he walk on his own?

19 A. No, I walked -- he walked in front of me and I  
20 walked behind him.

21 Q. Was he handcuffed?

22 A. Yes.

23 Q. Was he able to walk on his own?

24 A. Yes.

25 Q. Did he complain of any pain to you?

Alfaro - People - direct

246

1 A. No.

2 Q. Did he ask to receive any medical attention?

3 A. No.

4 Q. Did you observe any bruises on him?

5 A. No.

6 Q. Did you observe any scratches on him?

7 A. No.

8 Q. Did he ever ask to speak with an attorney?

9 A. No.

10 Q. Did he ever ask to make any phone calls?

11 A. No.

12 Q. Other than yourself, to your knowledge, as best as  
13 you remember, do you remember any other officers interacting  
14 with you and the defendant upon him entering the cell?

15 A. No.

16 Q. What did you say to defendant once he was brought  
17 into the cell?

18 A. That I was going to process the paperwork.

19 Q. Did you have any other conversation with him?

20 A. No.

21 Q. Was the defendant still handcuffed once he was  
22 placed into the cell?

23 A. No, I took the cuffs off.

24 Q. When was it that you took the cuffs off?

25 A. Once he was in the cell.

Alfaro - People - direct

247

1 Q. After the door was closed?

2 A. Before the door was closed.

3 Q. Was your weapon still secured at that point?

4 A. Yes.

5 Q. Did you see any other members of law enforcement  
6 go into the cell once the defendant was in there?

7 A. No.

8 Q. Did you have any conversation after -- with the  
9 defendant after he was placed in the cell?

10 A. No.

11 Q. Did there come a time when Detective Schulman  
12 asked you to further assist with recovering property in this  
13 case?

14 A. Yes.

15 Q. What were you told to do?

16 A. To take the complainant down and to show me where  
17 the property was in the vehicle, where she pointed it out  
18 to.

19 Q. Where did you go with the complainant?

20 A. On the side of the precinct where the vehicle was.

21 Q. What type of vehicle was it?

22 A. An Ecolab truck, work vehicle.

23 Q. Do you recall what the defendant was wearing on  
24 June 24th, 2008?

25 A. Work uniform.

Alfaro - People - direct

248

1 Q. How was it that you identified it as a work  
2 uniform?

3 A. Because it was all blue and it had, I believe, an  
4 Ecolab sign on the side.

5 Q. What happened when you went to the vehicle outside  
6 the 105th Precinct?

7 A. Excuse me?

8 Q. What did you do once you got to the vehicle that  
9 was parked outside the 105?

10 A. I took the complainant there. She showed me what  
11 was --

12 THE COURT: Let me just interrupt.  
13 Did you take the complainant or the  
14 defendant?

15 THE WITNESS: The complainant.

16 THE COURT: Okay.

17 A. I took the complainant to the vehicle where she  
18 showed me where a mini meat cleaver was in a middle console.

19 Q. Did you recover that meat cleaver?

20 A. Yes.

21 Q. Where did you recover it from?

22 A. The vehicle.

23 Q. Where in the vehicle?

24 A. The middle console.

25 Q. What else did you recover from the vehicle?

WS

Alfaro - People - direct

249

1 A. A massager.

2 Q. What did the massager look like?

3 A. A cordless white massager.

4 Q. Where was that recovered from?

5 A. The vehicle.

6 Q. Where in the vehicle?

7 A. I don't recall.

8 Q. Inside or outside?

9 A. Inside.

10 Q. What did you do with the white massager and the  
11 meat cleaver after you recovered it?

12 A. I vouchered it.

13 Q. What does that mean?

14 A. I basically took it into police custody for arrest  
15 evidence.

16 Q. Was that brought to a property bureau?

17 A. It was placed in our property cell until the  
18 property clerk picks it up and takes it.

19 Q. Did you prepare vouchers --

20 A. Yes.

21 Q. -- with regard to the both of those items?

22 A. Yes.

23 Q. Was that the only evidence that you recovered in  
24 this case?

25 A. No.

Alfaro - People - direct

250

1 Q. Where else did you go?

2 A. To the house.

3 Q. Whose house?

4 A. The defendant's house.

5 Q. Where was that located?

6 THE WITNESS: Can I refresh my memory?

7 I have to go back and look at the address.

8 THE COURT: All right, just indicate to us  
9 what it is that you're referring to. You can look at  
10 it, just tell us what it is that you're looking at.

11 THE WITNESS: Oh, okay.

12 I'm looking at the complaint report?

13 THE COURT: Okay.

14 A. I went to 242-10, 89 Avenue.

15 Q. In Queens?

16 A. In Queens.

17 Q. What did you do when you went to that location?

18 A. I was met by the mother of the complainant.

19 Q. Did she identify herself to you?

20 A. Yes.

21 Q. Who did you go with?

22 A. I went with two other officers.

23 Q. Do you recall what day it was that you went?

24 A. Same day as the 24th.

25 Q. What did you say to the victim's mother?

Alfaro - People - cross

251

1 A. If it's possible, I can come inside.

2 She let me in.

3 Q. Was she cooperative?

4 A. Yes.

5 Q. What did you do once inside the home?

6 A. I asked if I can go upstairs to retrieve a  
7 massager and she said yes.

8 Q. Where did you go?

9 A. To the bedroom.

10 Q. Whose bedroom?

11 A. The defendant's bedroom.

12 Q. Did it appear to you to be a master bedroom?

13 A. Yes.

14 Q. What did you recover from the bedroom?

15 A. A massager.

16 Q. Where did you recover it from?

17 A. Under the bed.

18 Q. Under the bed of the defendant's bedroom?

19 A. Yes.

20 Q. What color was it?

21 THE WITNESS: I would have to refresh my  
22 memory again, your Honor.

23 THE COURT: Yes.

24 A. I'm looking at Voucher P240076 and it's a -- was a  
25 two-speed massager, white and gray.

Alfaro - People - cross

252

1 Q. Is that the one you're referring to that you  
2 recovered from the defendant's bedroom?

3 A. Yes.

4 Q. What did you do with that massager upon recovering  
5 it?

6 A. I took it back to the station house and vouchered  
7 it.

8 Q. Similar to your vouchering of the other property?

9 A. Yes.

10 Q. Did you prepare a property receipt with regards to  
11 that massager?

12 A. Yes.

13 Q. Once the defendant was placed into the cell behind  
14 the desk was that your last contact with him?

15 A. Yes.

16 MS. JOHNSON: I have no other questions for  
17 Officer Alfaro.

18 THE COURT: Okay, Mr. Schechter?

19 CROSS-EXAMINATION

20 BY MR. SCHECHTER:

21 Q. Officer Alfaro, prior to going to the defendant's  
22 work vehicle did you have any conversation with  
23 Detective Schulman?

24 A. Yes.

25 Q. And were you given anything by Detective Schulman?



Alfaro - People - cross

253

1 A. A consent form.

2 Q. And with that consent form, what did you do with  
3 it?

4 A. I read it.

5 Q. And what did you do with it after you read it?

6 A. I went with the complainant down to the vehicle.

7 Q. And you already had the keys with you?

8 A. I don't recall.

9 Q. Where did you get the keys from?

10 A. I don't recall.

11 Q. Were you present in the courtroom yesterday with  
12 Detective Schulman?

13 A. Was I present in the courtroom?

14 Q. No, on the outside of the courtroom?

15 A. Yes.

16 Q. And did Detective Schulman take you to the window  
17 of this door behind me to the courtroom while the courtroom  
18 was either in session or my client, Mr. Gopaul, was sitting  
19 at the counsel table?

20 A. Not that I recall.

21 Q. Is it your testimony that he did not take you to  
22 the window to view my client, Mr. Gopaul, and point him out  
23 to you?

24 Is that your testimony?

25 A. No.

Alfaro - People - cross

254

1 Q. Did he do that?

2 A. No.

3 Q. Now, you indicated that you were doing a 11:15 to  
4 7:50 tour on Tuesday, June 24th, is that correct?

5 A. Yes.

6 Q. And part of your tour you were on radio motor  
7 patrol?

8 A. Yes.

9 Q. Were you the operator or the recorder?

10 A. I have to refresh my memory.

11 THE WITNESS: Can I get my memo book?

12 THE COURT: Yes, just tell us -- you're  
13 looking at a memo book?

14 THE WITNESS: Yes.

15 A. I don't have it written down.

16 Q. Do you recall if you were the operator or the  
17 recorder?

18 A. I don't recall.

19 Q. Who was your partner?

20 A. Officer Magor (ph).

21 Q. And was he one of the individuals you went to the  
22 house to search with?

23 A. No.

24 Q. What are the other names of the other police  
25 officers who accompanied you to the house to search?

Alfaro - People - cross

255

1 A. Officer Morris and Officer Ingracia (ph).

2 Q. And when were you given this -- withdrawn.

3 When did you return to the station house after  
4 your initial patrol, do you recall?

5 A. Referring back to my memo book, approximately  
6 0440 hours.

7 Q. That would be would be -- 440 hours would be in  
8 the morning, 4:40 a.m., correct?

9 A. Yes.

10 Q. And approximately what time did the sergeant  
11 supervising your patrol sign your memo book?

12 A. Prior to that at 0412 hours.

13 Q. And where did that take place?

14 A. Out on patrol.

15 Q. Do you recall where when you were on patrol?

16 A. No.

17 Q. Now, you had -- when you were on patrol did you  
18 make an arrest?

19 A. I was asked if I wanted an arrest. I said yes.

20 Q. I'm sorry?

21 A. I was asked if I wanted an arrest. I said yes.

22 Q. Who asked you that?

23 A. The sergeant.

24 Q. Approximately what time did he ask you that?

25 A. Don't recall.

Alfaro - People - cross

256

1 Q. And did you go to the property clerk with some  
2 property during your patrol?

3 A. No.

4 Q. I direct your attention to your memo book,  
5 officer. Your notation for 2337. You notice where it says  
6 borrow with property?

7 What does that mean?

8 A. That's taking property from the day before. I  
9 took property down from the day before of everything that  
10 was vouchered as to -- that had to go to the lab.

11 Q. You made a narcotics arrest?

12 A. No, I was just assigned to go there. It was a  
13 station house assignment.

14 Q. And the property that you took to the -- is that  
15 to the property clerk?

16 A. No, to the 107 Precinct.

17 Q. Oh, you took property from the 105 to the 107?

18 A. Yes.

19 Q. Do you recall what property that was?

20 MS. JOHNSON: Objection.

21 THE COURT: I'll allow it.

22 If you remember.

23 A. No.

24 Q. Now, this communication with respect to whether  
25 you want an arrest, was that from Sergeant O'Hagan?

Alfaro - People - cross

257

1 A. No.

2 Q. Who was that from?

3 A. I believe it was Goodman.

4 Q. Who?

5 A. Sergeant Goodman.

6 Q. Spell that name, please?

7 A. G-o-o-d-m-a-n.

8 Q. And Sergeant Goodman was working the desk that  
9 night?

10 A. No.

11 Q. Who was working the desk, if you can recall?

12 A. I don't recall.

13 Q. Was it Sergeant O'Hagan?

14 A. I don't recall.

15 Q. Now, there came a point where you returned to the  
16 precinct.

17 Do you remember when you returned to the precinct  
18 after your initial motor patrol?

19 A. Yeah.

20 Q. What time?

21 A. Approximately 0440.

22 Q. Now, there's a notation in your memo book 10.2.  
23 What does that mean?

24 A. That means return to station house.

25 Q. Now, I direct your attention to the third line

Alfaro - People - cross

258

1 down from the top. It says one yellow, 8.20.08.

2 What does that mean?

3 A. That is the color of the day and the return date.

4 Q. That is the color of what?

5 A. The color of the day and the return date.

6 Q. What does that mean?

7 A. That means for the officers to know if there's  
8 plainclothes that there's a color that we don't mistake with  
9 somebody else and if you're doing a Criminal Court summons  
10 that's the date that they're supposed to put down on the  
11 summons to return to court for the defendants.

12 Q. Got it.

13 Now, would it be fair to say that you received a  
14 communication from Sergeant Goodman between -- withdrawn.

15 Sergeant Goodman signed your memo book on 0412,  
16 didn't he?

17 A. Yes.

18 Q. And that was in the field, was it not?

19 A. Yes.

20 Q. Do you recall where you were when he signed your  
21 memo book?

22 A. No.

23 Q. Now, did you know where Detective Schulman was at  
24 that time?

25 A. No.

Alfaro - People - cross

259

1 Q. Did you have any communication with Detective  
2 Schulman?

3 A. Yes.

4 Q. And did that communication take place between 4:12  
5 in the morning and 4:40 in the morning?

6 A. No.

7 Q. When did that communication take place?

8 A. After 0445 hours.

9 Q. And when you returned to the station house do you  
10 recall who you saw behind the desk?

11 A. No.

12 Q. Did you observe Mr. Gopaul?

13 A. No.

14 Q. Had you been informed by the sergeant that there  
15 was someone under arrest?

16 A. Yes.

17 Q. And that was Sergeant O'Hagan?

18 A. I don't recall.

19 Q. Now, did you take the -- you said you processed  
20 Mr. Gopaul's arrest, is that correct?

21 A. Yes.

22 Q. Did you take the mugshot?

23 A. Yes.

24 Q. And where did you take that?

25 A. In the cell area.

Alfaro - People - cross

260

1 Q. In point of fact, Mr. Gopaul was already under  
2 arrest, was he not, Officer Alfaro?

3 A. From my understanding, yes.

4 Q. And he had been under arrest for a considerable  
5 period of time, isn't that true?

6 A. Can you rephrase the question?

7 Q. Yes. Mr. Gopaul, prior to your coming back to the  
8 station house, had already been placed under arrest, isn't  
9 that a fact?

10 A. I don't know. I was out in the field. I  
11 didn't --

12 Q. Well, weren't you told to come back to the station  
13 house to take an arrest?

14 A. Yes.

15 Q. Well, had you been informed when you got back to  
16 the station house that Mr. Gopaul had already been placed  
17 under arrest?

18 A. Yes.

19 Q. And who placed him under arrest?

20 A. I wasn't there.

21 Q. Who was the actual arresting officer of  
22 Mr. Gopaul, Officer Alfaro?

23 A. I am.

24 Q. Well, I'm not talking about the processing  
25 officer, Officer Alfaro, I'm talking about the arresting



Alfaro - People - cross

261

1 officer.

2 Who first placed Mr. Gopaul under arrest?

3 MS. JOHNSON: Objection, asked and answered  
4 already. She doesn't know.

5 MR. SCHECHTER: Oh, no, no, no, no.

6 THE COURT: I'll allow it.

7 Can you answer that, officer?

8 THE WITNESS: I was out in the field. I  
9 can't answer that question.

10 Q. Well, when you got back to the station house, were  
11 you told who took credit for the collar?

12 A. I took credit for the collar.

13 Q. You took credit for the collar even though you had  
14 nothing whatsoever to do with the arrest, is that what  
15 you're saying?

16 A. I placed -- I processed his arrest. I'm the  
17 arresting officer.

18 Q. Well, obviously he was already under arrest when  
19 you got back to the station house, that's what you just told  
20 us a minute ago.

21 My question is, who placed him under arrest?

22 A. I don't recall.

23 Q. Did Sergeant O'Hagan tell you that he and other  
24 officers placed him under arrest?

25 A. I don't recall.

Alfaro - People - cross

262

1 Q. Were you told that Mr. Gopaul resisted arrest in  
2 any way?

3 A. I don't recall.

4 Q. Officer, wouldn't you recall if an officer told  
5 you that Mr. Gopaul was violent because he resisted arrest?  
6 Wouldn't you recall that?

7 A. I would have to look at my paperwork to see the  
8 charges.

9 Q. Do you have anything on you which would indicate  
10 whether or not Mr. Gopaul had been violent at the time he  
11 was placed under arrest?

12 A. No.

13 Q. Did you know whether Sergeant O'Hagan placed  
14 Mr. Gopaul under arrest together with other officers?

15 A. I don't recall.

16 Q. Do you know how many officers certificates placed  
17 him under arrest?

18 A. Don't recall.

19 Q. When you came back to the station house where was  
20 Detective Schulman, if you know?

21 A. When I returned?

22 Q. Yes.

23 A. Up in the squad.

24 Q. Well, the squad is on the second floor of the  
25 station house, correct?

Alfaro - People - cross

263

1 A. Yes.

2 Q. And was he with anyone or was he alone?

3 A. I don't recall.

4 Q. Well, did he have any conversation with you when  
5 you returned to the station house?

6 A. Yes, I went upstairs to the squad.

7 Q. And what did he tell you?

8 A. He told me the basics of the complaint report, of  
9 an open 61.

10 Q. Did you do a 61 in this?

11 A. No.

12 Q. Did you fill out any other police work, police  
13 paperwork?

14 A. Yes, the online.

15 Q. The online booking sheet?

16 A. Yes.

17 Q. Do you have a copy of that with you?

18 A. Yes.

19 Q. Can I see it, please?

20 (Shown to counsel.)

21 THE COURT: Just off the record one minute.

22 (Discussion held off the record.)

23 Q. May I have the document, please?

24 MS. JOHNSON: Judge, I just want to make sure  
25 there's nothing in it that he's not entitled to.

Alfaro - People - cross

264

1 (Shown to counsel.)

2 MS. JOHNSON: I think he has this already.

3 (Shown to counsel.)

4 Q. Now, officer, was Sergeant Manolingus (ph) on duty  
5 at that time as well?

6 Sergeant Manolingus?

7 A. I don't recall.

8 Q. Do you know who that is?

9 A. Sergeant Manolingus?

10 Q. Yes.

11 A. Yeah, supervisor.

12 Q. And how many sergeants were on duty when you got  
13 to the precinct?

14 A. I don't recall.

15 Q. Now, when you filled out the details of the  
16 arrest, this wasn't as a result of your conversations with  
17 the complainant, was it?

18 A. Yes, I interviewed her first.

19 Q. Oh, you interviewed her as well -- you interviewed  
20 her before Detective Schulman did?

21 MS. JOHNSON: Objection to this line of  
22 questioning, your Honor.

23 THE COURT: No, I'll allow it.

24 A. I interviewed her after I made the arrest.

25 Q. You interviewed her after you made the arrest?

Alfaro - People - cross

265

1 A. I interviewed -- because it was an open 61.

2 Q. Do you know whether Detective Schulman had  
3 interviewed her?

4 A. I don't recall.

5 Q. Isn't it a fact, Officer Alfaro, that Detective  
6 Schulman interviewed the complainant and you, in order to  
7 get credit for the arrest, basically filled out this online  
8 booking sheet to recite what Schulman told you?

9 A. Can you rephrase the question?

10 Q. Isn't it a fact that it was Schulman who  
11 interviewed the complainant and that the information on this  
12 online booking sheet was not your -- the product of your  
13 interviewing the complainant, but what Schulman told you?

14 A. No.

15 MS. JOHNSON: Your Honor, counsel was  
16 provided copies.

17 Can we give that back to the officer?

18 MR. SCHECHTER: Yes, when I'm finished with  
19 it.

20 Q. Now, she told you that Mr. Gopaul punched her in  
21 the face?

22 MS. JOHNSON: Objection. Your Honor, this is  
23 totally outside the scope of the hearing, any  
24 conversations with the complainant.

25 MR. SCHECHTER: Withdraw the question, Judge.

Alfaro - People - cross

266

1 I would like to return this to the o officer.

2 (Shown to witness.)

3 Q. Now, officer, how long did it take you to process  
4 Mr. Gopaul's arrest?

5 A. I don't recall.

6 Q. Was it one hour, two hours, three hours?

7 How long was it?

8 A. I don't recall.

9 Q. Well, what did you do when you processed  
10 Mr. Gopaul's arrest?

11 Tell the Court what you did.

12 A. When I processed it?

13 Q. Yeah, what did you do?

14 A. I processed him, fingerprinted, took his picture.

15 Q. You fingerprinted him and you took his picture.

16 You took the picture or did a separate officer  
17 take the picture?

18 A. I took the picture.

19 Q. And after you took the picture, that's just a  
20 regular mugshot, it's like a Polaroid, right?

21 A. It's a -- like a sheet that gets printed out  
22 through a printer?

23 Q. Well, how do you take the picture, with a camera  
24 or through a computer?

25 A. Through a camera.

Alfaro - People - cross

267

1 Q. And what kind of camera was it you took the  
2 picture with?

3 A. Digital.

4 Q. And that comes through the computer, then?

5 A. Yes.

6 Q. And you put some information together with the  
7 photograph, is that correct?

8 A. Yes.

9 Q. And you took his fingerprints?

10 A. Yes.

11 Q. And you filled out some paperwork?

12 A. Yes.

13 Q. How many papers did you do, if you can recall?  
14 The normal processing?

15 A. I would have to look at my paperwork.

16 Q. Well, let's see.

17 You got the online booking sheet?

18 A. Um-hum.

19 Q. You don't do 61s?

20 A. I didn't do the 61.

21 Q. And you're not a detective so you don't do the  
22 DD5?

23 A. I didn't do the DD5.

24 Q. You did the vouchers, but that's later, after you  
25 recover the material?

Alfaro - People - cross

268

1 A. Yes.

2 Q. Prior to the search, how long were you at the  
3 precinct?

4 A. Don't recall.

5 Q. When did you do the search, do you recall that?

6 A. For the vehicle, it was still daylight.

7 Q. And when you -- did you take the vehicle into your  
8 custody or did you leave it where it was?

9 A. I left it where it was.

10 Q. And that was at the precinct, correct?

11 A. Yes.

12 Q. Okay. And how long did it take -- how far is  
13 Mr. Gopaul's home from the precinct, if you can recall?

14 A. About two minutes.

15 Q. Okay. Now, you say you arrested Mr. Gopaul at  
16 4:45 a.m., is that correct?

17 A. Yes.

18 Q. Then the next log entry you have is 2124,  
19 returning the Ecolab to a representative, I suppose, of  
20 Ecolab company, would that be correct?

21 A. Yes.

22 Q. Please tell the Court what you did for  
23 approximately 12 hours, or more?

24 A. Waited for the Ecolab guys to come, waited for the  
25 riding ADAs to come down to the precinct.



Alfaro - People - cross

269

1 Q. Now, hold on.

2 Who was -- is that for a statement to be taken of  
3 Mr. Gopaul?

4 A. I don't recall.

5 Q. Well, what was the purpose of waiting for the DAs  
6 to come to the precinct?

7 A. Because it was a sensitive case.

8 Q. Detective Schulman was there with Mr. Gopaul at  
9 that point, was he not?

10 A. Yes.

11 Q. Well, what was the need for you to be there  
12 waiting for the DAs if Detective Schulman was there?

13 A. Because I was still the arresting officer.

14 Q. Detective Schulman had Mr. Gopaul in his custody,  
15 did he not?

16 A. Yes, but he's still my prisoner.

17 Q. Oh, so he's your prisoner.

18 So, in other words, what you're saying --

19 A. I'm still responsible.

20 Q. So from 4:45 a.m. until 9 o'clock at night the  
21 following night, the 25th, that would be, let's see, that's  
22 19 hours.

23 So what you're saying is you were with Mr. Gopaul  
24 for 19 hours, is that correct?

25 A. Just outside the interview room in the detective

Alfaro - People - cross

270

1 squad.

2 Q. So you were sitting there for three tours, over  
3 two tours?

4 A. Yes.

5 Q. And you received overtime for two tours, is that  
6 correct?

7 A. Yes.

8 MS. JOHNSON: Objection.

9 THE COURT: All right, overruled.

10 A. Yes.

11 Q. Now, what if I told you that the statements  
12 obtained from Mr. Gopaul finished about a quarter to 9.

13 What were you doing from a quarter to 9 to 2124?

14 MS. JOHNSON: Objection.

15 THE COURT: Yeah, I'm just -- I'm going to  
16 sustain it as to form.

17 Could you just be a little bit clearer?

18 MR. SCHECHTER: Withdrawn.

19 Q. Is it your obligation to stay with the prisoner  
20 all the time until he is lodged?

21 A. Yes.

22 Q. Were you in the room at the time of the  
23 interrogation?

24 A. No.

25 Q. Why?

Alfaro - People - cross

271

1 A. Because I was asked to step outside.

2 Q. Why, it was your prisoner?

3 A. Because --

4 MS. JOHNSON: Objection.

5 Which interrogation are we talking about.

6 THE COURT: Well --

7 Q. The video statement?

8 A. The ADAs asked me to stay outside while they did  
9 the videotaping.

10 Q. Did you transfer custody back to  
11 Detective Schulman?

12 A. Yes. But I was still in the squad at the time.

13 Q. What time, can you recall, did you receive the  
14 call from the sergeant telling you that he wanted you to  
15 take an arrest?

16 A. I don't recall.

17 Q. Was it during your radio motor patrol?

18 A. Yes.

19 Q. At any time were you present during any  
20 interrogation of Mr. Gopaul?

21 A. No.

22 MR. SCHECHTER: No more questions of the  
23 witness, Judge.

24 THE COURT: Anything, Ms. Johnson?

25 MS. JOHNSON: Just quickly.

Alfaro - People - redirect/recross

272

1 REDIRECT EXAMINATION

2 BY MS. JOHNSON:

3 Q. Officer Alfaro, did you have opportunity to  
4 observe the defendant after he was interviewed by  
5 Detective Schulman?

6 A. Yes.

7 Q. Did you observe any injuries on his body?

8 A. No.

9 Q. Did he complain of any injuries?

10 A. No.

11 Q. Did he ask for -- to receive any medical  
12 attention?

13 A. No.

14 MS. JOHNSON: Nothing else, Judge.

15 RECROSS-EXAMINATION

16 BY MR. SCHECHTER:

17 Q. Did you examine the defendant's arms and legs?

18 A. No.

19 Q. Did you examine his abdomen?

20 A. No.

21 MR. SCHECHTER: Thank you.

22 THE COURT: Okay, thank you very much.

23 Step down.

24 (Witness excused.)

25 THE COURT: People, you rest?

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1 MS. JOHNSON: I rest.

2 Can I just officially excuse her?

3 THE COURT: Yes.

4 While you're doing that --

5 MS. JOHNSON: Make a call?

6 THE COURT: Yeah, make a call and tell her to  
7 expect to see her next week early.

8 MR. SCHECHTER: Your Honor, I'm respectfully  
9 asking the Court to direct the witness to be available  
10 for trial so that we don't have a repeat of today where  
11 she ignored this Court's -- the DA's subpoena.

12 MS. JOHNSON: Your Honor, I had a  
13 conversation with Officer Alfaro about what occurred  
14 today.

15 I think it's important that she addresses  
16 your Honor as to what it is that happened because she  
17 did speak with her command and they advised her to go  
18 to traffic court.

19 So I don't want to be in a position where the  
20 officer is leaving the witness stand shirking the Court  
21 and any impression that she wasn't abiding by any  
22 subpoenas.

23 THE COURT: Just bring her in, please.

24 (Witness enters the courtroom.)

25 THE COURT: Officer Alfaro, just have a seat

Proceedings

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1 here for a moment.

2 I understand -- and I don't know whether  
3 there's some miscommunication with your presence being  
4 here, I understand from the People that they subpoenaed  
5 you last week to be here today.

6 I expect a subpoena to be sent out sometime  
7 in the next couple of days.

8 I'm assuming you're going to be calling  
9 Officer Alfaro for the trial.

10 MS. JOHNSON: That is correct, your Honor.

11 THE COURT: So obviously I would direct you  
12 to be here for any subpoena in the future with respect  
13 to this case.

14 If there's any question whatsoever about what  
15 takes priority, as far as this case is concerned, I  
16 would ask you to call the assistant.

17 And if there's any question, Ms. Johnson, or  
18 any confusion --

19 MS. JOHNSON: Of course, Judge.

20 THE COURT: -- please speak to my chambers,  
21 but as far as I'm concerned, just by way of example, a  
22 Criminal Court case, County Court case, is going to  
23 take precedence over any traffic court matter.

24 I understand you may have been directed by  
25 your command to go to traffic court. Why they would

Proceedings

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1 think that that is more important or takes precedence  
2 over a County Court felony case, escapes me, but if  
3 there's any question or any doubt in your mind about  
4 where you should be, I would expect you to be here next  
5 week.

6 THE WITNESS: Yes. I do apologize for taking  
7 up the Court's time on that.

8 THE COURT: Okay, we'll see you here next  
9 week.

10 THE WITNESS: I'm not going to be needed for  
11 tomorrow?

12 THE COURT: No.

13 MS. JOHNSON: And the officer has my personal  
14 cell phone number.

15 THE WITNESS: Yes.

16 MS. JOHNSON: So if there's any problems  
17 obviously she knows where to contact me.

18 THE COURT: See you next week.

19 COURT OFFICER: She can go, right?

20 MS. JOHNSON: Yes.

21 (Witness excused.)

22 THE COURT: People, I think you said you're  
23 resting?

24 MS. JOHNSON: We do, your Honor.

25 THE COURT: Mr. Schechter?

Gopaul - Defendant - direct

276

1 MR. SCHECHTER: I call the defendant.

2 THE COURT: All right, Mr. Gopaul, if you  
3 would, please, step forward?

4 H A R O L D G O P A U L, Defendant, having been first duly  
5 sworn by the clerk of the Court, was examined and  
6 testified under oath as follows:

7 COURT OFFICER: Take a seat.

8 DIRECT EXAMINATION

9 BY MR. SCHECHTER:

10 Q. Mr. Gopaul --

11 COURT OFFICER: Hold on.

12 For the record, state your name, spell your  
13 last name?

14 THE WITNESS: Harold Gopaul, G-o-p-a-u-l.

15 MR. SCHECHTER: May I proceed?

16 THE COURT: Yes.

17 Q. Mr. Gopaul, how old are you?

18 A. Now, I'm 51.

19 Q. Fifty-one years of age?

20 A. Yes.

21 Q. On June 24th, by whom are you employed?

22 A. Ecolab Pest Elimination.

23 Q. Ecolab?

24 A. Pest Elimination.

25 Q. And what was your position with Ecolab pest



Gopaul - Defendant - direct

277

1 extermination?

2 A. Service specialist.

3 Q. Now, were you given a vehicle as part of your  
4 duties?

5 A. Yes.

6 Q. And were you the principal occupant and driver of  
7 that vehicle?

8 A. Yes.

9 Q. Anyone have permission to drive that vehicle but  
10 you?

11 A. No.

12 Q. Now, did you suffer any injuries to your person  
13 prior to June 24th, 2008?

14 A. No.

15 Q. Did you have any operations prior to June 24th,  
16 2008?

17 A. Yes, I did.

18 Q. And where was that operation?

19 A. I had a hernia on my naval, on my belly button, a  
20 few years ago.

21 Q. How many years ago, if you recall?

22 A. Give or take, could be four years.

23 Q. Do you suffer any lingering discomfort from that  
24 operation?

25 A. Off and on, I have pains in my belly.

Gopaul - Defendant - direct

278

1 Q. Now, on June 24th, when for the last time --  
2 withdrawn.

3 When for the last time prior to June 24th had you  
4 had anything to eat?

5 A. Sunday before at 9 p.m.

6 Q. Now, Sunday would be what, June 2 --

7 A. 22nd.

8 Q. And why was that?

9 A. Because I don't eat too late. We went to a fair  
10 and we came back. I had some work done in the yard and then  
11 I had dinner and we went to bed.

12 Q. Why wasn't it you hadn't had anything to eat  
13 between Sunday June 22nd and June 24?

14 A. The reason why, I don't really eat outside. If I  
15 do buy food outside I take it home to the family. At that  
16 point in time I was working all day Monday straight through  
17 Tuesday morning and I don't eat meat, I don't drink alcohol,  
18 so the reason why I don't eat outside, because of the meat.

19 Q. When you came home from work on the evening of  
20 June 24th, was it, what, if anything, did you observe?

21 A. Well, I --

22 Q. You can answer the question.

23 A. My regular duties as a parent, I check for my  
24 kids, check for my wife, make sure everybody is in bed, I  
25 cover them if it's cold, I put a fan on, I'll take it off.

Gopaul - Defendant - direct

279

1 Q. Did you notice if anyone was missing?

2 A. Sana Awan was missing.

3 Q. Approximately what time was that?

4 A. Around a quarter to 2 in the morning.

5 Q. Where, if at all, did you go?

6 A. I told my wife -- we look in the garage, we looked  
7 downstairs in the basement, we looked up in the attic to see  
8 if she was there.

9 And then I noticed that the back door was unlocked  
10 so I told my wife, apparently Sana ran away.

11 Q. So where did you go?

12 A. I decided to go to the police to make a report.

13 Q. How far away is the precinct from your house?

14 A. A little more than a quarter mile.

15 Q. And how did you get there?

16 A. I drove the service vehicle that I had.

17 Q. And approximately what time did you get to the  
18 precinct?

19 A. About 2:30.

20 Q. And when you got to the precinct where did you go?

21 A. I stood by the door and one officer asked me, "Can  
22 I help you?"

23 Q. Describe the officer?

24 A. Tall, male, big in size.

25 Q. About how much taller -- was he taller than you?

Gopaul - Defendant - direct

280

1 A. Yes.

2 Q. How much taller than you?

3 A. I would say about probably six to eight inches  
4 taller than me, give or take.

5 Q. And how much did he weigh, approximately?

6 A. Over 200 pounds.

7 Q. And what, if anything, occurred between you and  
8 the officer?

9 A. He came up to me and asked me, he said, "Can I  
10 help you?"

11 And I said, "I came to report my daughter is  
12 missing."

13 And he asked my name and address. He asked me  
14 where -- I told him where I lived and my name and address  
15 and he asked me why am I looking for my daughter.

16 I say, "I don't know. I just came home and I went  
17 looking for my kids in the bed and she was missing, so I  
18 decide to come and make a report."

19 About -- at that time there were a few officers  
20 there, give or take, nine or ten of them, they just came  
21 around where I was standing close to me and they all stood  
22 by me there.

23 Q. Could you please describe some of the officers?

24 A. They had a lot of white guys, they had a black guy  
25 and a -- I don't know what race they was. I know the white

Gopaul - Defendant - direct

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1 skin and black guy.

2 Q. What, if anything, occurred at that time that they  
3 surrounded you?

4 A. After they asked me the questions, the officer who  
5 asked me the question, he grabbed me by my hand and slammed  
6 me to the wall next to the front door.

7 Q. Please describe how he did that?

8 Describe to the Court how that happened?

9 A. Should I stand up or --

10 MR. SCHECHTER: May he demonstrate, Judge?

11 THE COURT: Yeah, go ahead.

12 A. This is the front door here. The officer was  
13 standing here. The rest of the officers was around him,  
14 close to me, and they were like moving closer.

15 When I finished answering the question he hold me  
16 by my hand and slammed me into the wall like this and put my  
17 hand behind my back.

18 Q. Go ahead.

19 A. And then he -- the cop said, "Put the cuff on  
20 him," and then one of the guy put the cuff on.

21 While they were putting the cuff on me they  
22 arrested me, they were pulling me, they ws spreading my legs  
23 as far as they can go. They were scratching and squeezing  
24 and tugging.

25 Q. Where did they scratch you?